

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
Miami Division**

HOUSING OPPORTUNITIES PROJECT FOR
EXCELLENCE, INC., (“HOPE”),
ZIPPORAH HAYES, MICHAEL GOLDWIRE,
and LAKEISHA WRIGHT

Plaintiffs,

v.

Case No.

ELITE RIVERVIEW APARTMENTS, INC., and
ROBERTO “DOE,”

Defendants.

**COMPLAINT FOR HOUSING DISCRIMINATION
ON THE BASIS OF RACE and JURY DEMAND**

1. This is a civil action seeking a declaratory judgment, permanent injunctive relief, and damages for discrimination in the rental of housing on the basis of race. This action arises under the Fair Housing Act, 42 U.S.C. § 3601, et seq.; and the Civil Rights Act of 1866, 42 U.S.C. §§ 1981 and 1982.

Jurisdiction and Venue

2. Jurisdiction is invoked pursuant to 42 U.S.C. § 3612 in that Plaintiffs elect to assert their claims of housing discrimination in a civil action; pursuant to 28 U.S.C. §§ 1331 and 1343(a)(4) in that this is a civil action seeking to redress the deprivation of the right to fair housing secured to the Plaintiffs by the Fair Housing Act and the Civil Rights Act of 1866; pursuant to 28 U.S.C. § 1337 in that defendants' unfair housing practices create a restraint on commerce; and pursuant to 28 U.S.C. §§ 2201 and 2202 for declaratory and injunctive relief.

3. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b) and 1391(c) in that the claims arose in this district and Defendants conducts business in this district.

Parties

4. Plaintiff, Housing Opportunities Project for Excellence, Inc. (hereinafter "HOPE"), is a Florida not-for-profit corporation headquartered in Miami, Florida. HOPE provides information about and seeks to enforce fair housing laws for the people of south Florida who have been unjustly denied access to housing. HOPE attempts to accomplish these goals by empowering people through education, advocacy and enforcement of fair housing laws. HOPE engages in testing for fair housing law violations, pursuing enforcement of meritorious claims, conducting fair housing education and outreach, and administering relocation and mobility counseling programs designed to prevent and eliminate discriminatory housing practices. HOPE is funded, in part, by the United States Department of Housing and Urban Development (U.S. HUD) to provide fair housing education, outreach and discriminatory fair housing investigations in South Florida.

5. Plaintiff, Zipporah Hayes, is a Black tester for HOPE who sought information from Defendants' agent about the availability of apartments at Elite River View Apartments. Ms. Hayes was and continues to be adversely affected by the acts, omissions, policies, and practices of the Defendant and its agent, Defendant Roberto "Doe."

6. Plaintiff, Michael Goldwire, is a Black tester for HOPE who sought information from Defendants' agent Roberto "Doe" about the availability of apartments at Elite River View Apartments. Mr. Goldwire was and continues to be adversely affected by the acts, omissions, policies, and practices of the Defendant and its agent, Defendant Roberto "Doe."

7. Plaintiff, Lakeisha Wright, is a Black tester for HOPE who sought information from Defendants' agent, Defendant Roberto "Doe" about the availability of apartments at Elite River View Apartments. Ms. Wright was and continues to be adversely affected by the acts, omissions, policies, and practices of the Defendant and Defendant's agent.

8. Defendant, Elite River View Apartments, Inc., is the owner of Elite River View Apartments.

9. On information and belief, Defendant, Roberto "Doe," is the rental manager of the Elite River View Apartments, and as such is an agent of Defendant Elite River View Apartments, Inc. The last name of Defendant Roberto "Doe" is presently unknown as he refused to provide it when asked. Once known, it will be substituted for "Doe."

Factual Allegations

10. In February of 2014, HOPE began to randomly test for race discrimination at Elite River View Apartments.

The First Set of Tests

11. At approximately 11:20 a.m. on February 28, 2014, Ms. Zipporah Hayes, a Black tester for HOPE, arrived at Elite River View Apartments to inquire as to the availability of apartments.

12. Ms. Hayes met the rental manager for Defendant, Defendant Roberto "Doe," and asked him if there were any two-bedroom apartments available for rent.

13. Defendant Roberto "Doe" told Ms. Hayes that no apartments were currently available, and that apartments would probably be unavailable until the second week of March.

14. Defendant Roberto "Doe" advised Ms. Hayes to contact him again on or around March 15, 2014 to see if any units were available at that time.

15. When Ms. Hayes attempted to follow Mr. Doe into his office to request a business card, Mr. Doe stopped her, refused to provide a business card, rudely stated “I didn’t invite you in,” and advised her to have a great day.

16. At approximately 1:50 p.m. on February 28, 2014, Alexandra Del Rosario, a Hispanic tester for HOPE, visited Elite River View Apartments to inquire as to the availability of apartments.

17. When Ms. Del Rosario arrived at the location, the building was gated and there was no sign of a leasing office, so she called a number listed and a female who answered the phone provided her with Defendant Roberto “Doe’s” phone number. She then proceeded to contact Defendant Roberto “Doe” and he told her to drive around to the back of the building so he could open the gate for her.

18. Defendant Roberto “Doe” showed Ms. Del Rosario the apartment that was available at that time, Penthouse 703, and told her that it was \$1,325.00 a month.

19. Defendant Roberto “Doe” then asked Ms. Del Rosario how many adults would be living in the apartment. Ms. Del Rosario replied that there would be two adults and one child, and Defendant Roberto “Doe” told her that she would have to bring a money order in the amount of \$95.00 as the application fee for two adults.

20. Ms. Del Rosario asked about when she would be able to move in if approved, and Defendant Roberto “Doe” told her that once approved she can move in anytime. However, if she wanted the apartment in move-in condition, it could be ready around March 10th.

21. Ms. Del Rosario asked for the application and said she would bring it back the next day with the money order, but Defendant Roberto “Doe” told her he would give her the application once she brought her money order.

22. As Ms. Del Rosario and Defendant Roberto “Doe” left the apartment building, Roberto showed her the laundry room, stated that it was open from 7:00 a.m. to 11:00 p.m., and took her down to the parking garage where Ms. Del Rosario thanked Roberto for his time.

The Second Set of Tests

23. At approximately 10:15 a.m. on March 13, 2014, Michael Goldwire, a Black tester for HOPE, visited Elite River View Apartments to inquire as to the availability of apartments.

24. Prior to going up the elevator to the first floor, Mr. Goldwire noticed a sign on a door that said “For Deliveries Please Contact Manager 786-487-9719” and he wrote down the telephone number.

25. When Mr. Goldwire got to Unit 109, he knocked on the door, but there was no answer. He then called the number he had written down, but there was no answer.

26. As Mr. Goldwire started to leave, a lady and her daughter came from the apartment next door. Mr. Goldwire asked the lady if Unit 109 was the manager’s apartment, and she stated that it was.

27. The lady, who was a Hispanic woman and resident, told Mr. Goldwire that the office was downstairs. They proceeded in the elevator downstairs, and while in the elevator Mr. Goldwire received a call back from the number he had just dialed. He could not answer it at that moment because of the lack of telephone service.

28. Mr. Goldwire knocked at the office door downstairs, but nobody answered. He then called back the same telephone number and got in contact with Defendant Roberto “Doe.”

29. Mr. Goldwire told Defendant Roberto that he was outside of the office and said that he was looking for a two-bedroom apartment. Defendant Roberto told him that there were none available. Mr. Goldwire then asked for a one-bedroom, and Defendant Roberto said there

were none available and that Mr. Goldwire should call back on March 28 to see if anything was available at that time.

30. Defendant Roberto “Doe” had “audio and video surveillance on duty at all times” so he could observe the race and color of anyone – including Mr. Goldwire and all other HOPE testers -- who appeared at the secure entrance to the Elite River View Apartments.

31. Mr. Goldwire then asked Defendant Roberto for his first and last name, but Roberto only offered his first name. Mr. Goldwire thanked Defendant Roberto and subsequently left the property.

32. At approximately 12:02 p.m. on March 13, 2014, Eugenio Reyes, a Hispanic tester for HOPE, arrived at Elite River View Apartments to inquire as to the availability of apartments.

33. Mr. Reyes was walking into the manager’s office and encountered Defendant Roberto, who told him that he was the manager as well as the cleaning person.

34. Mr. Reyes asked if there were any two bedroom apartments available for rent, and Roberto replied that there was one apartment available, but that it would not be ready to be moved into until April 14, 2014.

35. Mr. Reyes requested to see the available apartment, and Defendant Roberto showed him Apartment 702.

36. Mr. Reyes asked Defendant Roberto about the price of the apartment, and Roberto stated that it would be \$980.00 per month. He also told Mr. Reyes that he needed to submit to a background check for \$70.00 as well as pay an extra \$35.00 for any additional person coming to live with him. Mr. Reyes stated that he would be living alone.

37. Defendant Roberto told Mr. Reyes that he would need to fill out the application form but that it would have to be done later because he was currently very busy working with the people on the first floor.

38. Mr. Reyes asked Defendant Roberto for a business card, and Roberto stated that he did not have business cards but that Mr. Reyes could call him at 786-487-9719.

39. Mr. Reyes thanked Defendant Roberto for his assistance and then asked Roberto for his last name. Roberto declined to state his last name and requested that Mr. Reyes only call him Roberto. Mr. Reyes then left the property.

The Third Set of Tests

40. At approximately 12:06 p.m. on March 20, 2014, Lakeisha Wright, a Black tester for HOPE, arrived at Elite River View Apartments to inquire as to the availability of apartments.

41. Ms. Wright arrived at the complex and walked up to an office that had the hours of operation as well as a manager's phone number listed on the door.

42. Ms. Wright knocked on the door multiple times with no answer, so she called the number listed on the door.

43. Defendant Roberto "Doe" answered the phone and Ms. Wright explained that she was at the complex and then inquired as to whether any units were available for rent.

44. Defendant Roberto said there was nothing available and that he would not have anything available until the next month.

45. Ms. Wright asked Roberto if there was a unit she could see, and he told her that there was not and that she could give him a call back the first week of April to see if something opened up.

46. Ms. Wright asked Defendant Roberto “Doe” for the rental amounts, and he said he could not tell her because “the company gives him the rate amounts.”

47. Before the phone call ended, Ms. Wright asked Roberto for his name and he simply replied “Roberto.” She thanked Roberto for his time and hung up the phone around 12:15 p.m.

48. At approximately 1:45 p.m. on March 20, 2014, Laura Morales, a Hispanic tester for HOPE, arrived at Elite River View Apartments to inquire as to the availability of apartments.

49. Ms. Morales called Defendant Roberto and then met him in the parking lot of the building. He greeted her in Spanish in a very polite manner and asked her how he could help her.

50. Ms. Morales asked Roberto if there were any two-bedroom apartments available, and he told her that he had a penthouse available for \$1,325.00 a month.

51. Roberto then asked Ms. Morales about her budget, and she told him it was \$1,400.00. He then told her not to worry and that he could ask the supervisor to lower the price for her.

52. Roberto took Ms. Morales to Unit 703 and showed her the apartment.

53. Roberto told Ms. Morales that the application fee was \$70.00 and an additional \$30.00 for anybody else moving in with her. He also informed her that there would be a credit check, a background check, and employment verification, which takes up to five days to process.

54. Roberto informed Ms. Morales that after these checks she would need to pay a security deposit of \$1,325.00 as well as the first month’s rent.

55. Ms. Morales asked Roberto when the apartment would be ready and told him that she needed it as soon as possible, to which he replied that it would take 5 days to process the application and then a few days to clean up everything for her to move in.

56. Roberto told Ms. Morales that water, sewer, and extermination was included every month in the rent and that he would speak to his supervisor to see about lowering the rent.

57. Ms. Morales thanked Defendant Roberto for his help and left the premises at 2:20 P.M.

Count I

Violations of the Fair Housing Act

58. Plaintiffs repeat and reallege paragraphs 1 through 57 as if fully set forth herein.

59. Defendants, in violation of 42 U.S.C. § 3604, have discriminated against Plaintiffs Hayes, Goldwire, and Wright, because of their race.

60. Defendants' violations of 42 U.S.C. § 3604 have caused harm to Plaintiff HOPE.

61. Defendant, Elite River View Apartments, Inc., as the owner and operator of the property located at 1750 NW 27th Avenue, Miami, Dade County, Florida, is liable for the violation of Plaintiffs' rights under 42 U.S.C. § 3604 because, at all times relevant hereto, Defendant Roberto was acting (a) at the express direction of, and/or (b) with the consent of, and/or (c) under the control and supervision of, and/or (d) within his authority as an agent of Defendant Elite River View Apartments, Inc.

62. Defendant, Roberto "Doe," while acting as the manager and agent of the property owned by Defendant, Elite River View Apartments, Inc., located at 1750 NW 27th Avenue, Miami, Dade County, Florida, is liable for the violation of Plaintiffs' rights under 42 U.S.C. § 3604.

Count II

Violation of the Civil Rights Act of 1866

63. Plaintiffs repeat the allegations and averments of paragraphs 1 through 57 as if fully set forth herein.

64. Defendants' pattern, practice, and policy of discrimination has denied Plaintiffs Hayes, Goldwire, and Wright the same rights enjoyed by non-black citizens to contract for and to lease real property in violation of 42 U.S.C. §§ 1981 and 1982.

65. Defendants' violations of 42 U.S.C. §§ 1981 and 1982 have caused harm to Plaintiff HOPE.

66. Defendant, Elite River View Apartments, Inc., as the owner and operator of the property located at 1750 NW 27th Avenue, Miami, Dade County, Florida, is liable for the violation of Plaintiffs' rights under 42 U.S.C. §§ 1981 and 1982 because, at all times relevant hereto, Defendant Roberto was acting (a) at the express direction of, and/or (b) with the consent of, and/or (c) under the control and supervision of, and/or (d) within his authority as an agent of Defendant Elite River View Apartments, Inc.

67. Defendant, Roberto "Doe," while acting as the manager and agent of the property owned by Defendant, Elite River View Apartments, Inc., located at 1750 NW 27th Avenue, Miami, Dade County, Florida, is liable for the violation of Plaintiffs' rights under 42 U.S.C. § 3604.

Relief Sought

WHEREFORE, Plaintiffs respectfully request that the Court:

- A. declare the actions of Defendants complained of herein to be in violation of the Fair Housing Act, as amended, 42 U.S.C. § 3601, et seq. and the Civil Rights Act of 1866, 42 U.S.C. §§ 1981 and 1982;

- B. order Defendants to take appropriate affirmative actions to ensure that the activities complained of above are not engaged in again by them or any of their agents;
- C. permanently enjoin Defendants, their agents, employees, and successors from discriminating on the basis of race against any persons in violation of the Fair Housing Act of 1965 or the Civil Rights Act of 1866;
- D. award compensatory and punitive damages to Plaintiffs Hayes, Goldwire, and Wright against Defendants, to compensate Plaintiffs Hayes, Goldwire, and Wright for, among other things, the humiliation, embarrassment, and emotional distress caused by Defendants' discriminatory actions, and loss of equal housing rights;
- E. award compensatory and punitive damages to Plaintiff Housing Opportunities Project for Excellence, Inc. against the Defendants to compensate Plaintiff Housing Opportunities Project for Excellence, Inc. for, among other things, the drain on its resources that can be attributed to the frustration of Plaintiff Housing Opportunities Project for Excellence, Inc.'s purpose of enforcing the fair housing laws in Florida and providing housing counseling and referral services;
- F. award appropriate punitive and compensatory damages to Plaintiff Housing Opportunities Project for Excellence, Inc. and against Defendants for, among other things, the mental and emotional distress, humiliation, and embarrassment suffered by Plaintiff Housing Opportunities Project for Excellence, Inc.'s members and constituents, because of Defendants' discriminatory practices, which directly affect its members' and constituents' rights to live in a community where persons are not discriminated against because of race;

- G. award Plaintiffs Hayes, Goldwire, Wright, and Housing Opportunities Project for Excellence, Inc. their costs and reasonable attorneys' fees in this action; and
- H. award Plaintiffs Hayes, Goldwire, Wright, and Housing Opportunities Project for Excellence, Inc. such other and further relief as the Court deems just and proper.

Demand for Jury Trial

Pursuant to Rule 38(b), Federal Rules of Civil Procedure, Plaintiffs demand a trial by jury on all issues so triable in this matter.

Respectfully submitted,

Randall C. Berg, Jr., Esq.
Florida Bar No. 318371
RBerg@FloridaJusticeInstitute.org
Dante P. Trevisani, Esq.
Florida Bar No. 72912
DTrevisani@FloridaJusticeInstitute.org

Florida Justice Institute, Inc.
3750 Miami Tower
100 S.E. Second Street
Miami, Florida 33131-2309
305-358-2081
305-358-0910 (FAX)

Attorneys for Plaintiffs

By: s/Randall C. Berg, Jr.
 Randall C. Berg, Jr., Esq.