

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

FILED 12/18/73

HERBERT BROWN
1233 Toluca Court
Cincinnati, Ohio 45224

CIVIL ACTION NO. 9051

JAMES E. DAVIS
1230 Oak Knoll
Cincinnati, Ohio 45224

HELEN EHOODEN
1006 Marion Street
Cincinnati, Ohio 45229

BARBARA FRITZ
1234 Paddock Hills Avenue
Cincinnati, Ohio 45229

PAUL FRESHWATER
4414 Hill & Dale
Cincinnati, Ohio 45213

BOBBIE FRESHWATER
4414 Hill & Dale
Cincinnati, Ohio 45213

VERIFIED COMPLAINT

GEORGE GARLAND
2116 Henderson Avenue
Wheaton, Maryland 20902

MARY GARLAND
2116 Henderson Avenue
Wheaton, Maryland 20902

JAMES GROFT
6353 Iris Avenue
Cincinnati, Ohio 45213

FRED HILL
1500 Yarmouth Avenue
Cincinnati, Ohio 45237

EARNESTINE JACKSON
3539 Lumford Place
Cincinnati, Ohio 45213

JODY LICIS
6760 Doon Avenue
Cincinnati, Ohio 45213

MARIE NIEMAN :
1149 Atwood Avenue :
Cincinnati, Ohio 45224 :

and :

ROSEMARY SAMMONS :
1299 Paddock Hills Avenue :
Cincinnati, Ohio 45229 :

Plaintiffs :

vs. :

JOHN FEDERLE, d/b/a :
FEDERLE REALTORS :
7404 Hamilton Avenue :
Cincinnati, Ohio 45231 :

HAROLD W. HAGUE, d/b/a :
HAGUE REALTORS :
7321 Montgomery Road :
Cincinnati, Ohio 45236 :

M & M REALTY, INC. :
7883 Reading Road :
Cincinnati, Ohio 45237 :

PARCHMAN & OYLER CO. :
9811 Colerain Avenue :
Cincinnati, Ohio 45239 :

HOMER TEEGARDEN :
2089 Sherman Avenue :
Cincinnati, Ohio 45212 :

RUTH FERNBACH :
7404 Hamilton Avenue :
Cincinnati, Ohio 45231 :

GEORGE ZITT :
7883 Reading Road :
Cincinnati, Ohio 45237 :

BOB BEEBE :
7321. Montgomery Road :
Cincinnati, Ohio 45236 :

PHIL COUNTS :
7883 Reading Road :
Cincinnati, Ohio 45237 :

BETSY PASCAL :
7883 Reading Road :
Cincinnati, Ohio 45237 :

SHIRLEY MALLOY :
7883 Reading Road :
Cincinnati, Ohio 45237 :

LAFE DOZIER :
 7883 Reading Road :
 Cincinnati, Ohio 45237 :

 NORB BANEY :
 8075 Reading Road :
 Cincinnati, Ohio 45237 :

 PAUL DILLON :
 7883 Reading Road :
 Cincinnati, Ohio 45237 :

 SHIRLEE SHORHOUSE :
 7883 Reading Road :
 Cincinnati, Ohio 45237 :

 BOB FOOTE :
 9811 Colerain Avenue :
 Cincinnati, Ohio 45239 :

 BILL REED :
 7321 Montgomery Road :
 Cincinnati, Ohio 45236 :

 and :

 ROSE DEBORDE :
 7321 Montgomery Road :
 Cincinnati, Ohio 45237 :

 Defendants :

Come now the above named plaintiffs and complain as follows:

1. Plaintiffs bring this action pursuant to Rule 23(a) and (b)(2) of the Federal Rules of Civil Procedure on behalf of themselves as members of and on behalf of all other persons who are members of either of the following classes:

(A) All property owners residing in integrated neighborhoods within Hamilton, Butler, Warren, and Clermont Counties whose property values have been or will be affected or whose neighborhoods are being re-segregated by defendants' conduct described herein. (Plaintiff Class A).

(B) All prospective purchasers of homes in the Greater Cincinnati area, including Hamilton, Butler, Warren,

and Clermont Counties, whose civil rights have been or will be affected by defendants' conduct complained of herein (Plaintiff Class B).

Members of each of the classes on behalf of whom plaintiffs sue are so numerous that joinder of all members is impracticable. However, with respect to Plaintiff Class A there are common questions of law and fact which relate to the rights of members of Plaintiff Class A to maintain their property values and live in integrated neighborhoods without being subjected to violations of 42 U.S.C. Sections 1981, 1982, and 3601 et seq.; and with respect to Plaintiff Class B, there are common questions of law and fact with respect to the rights of members of Plaintiff Class B, to be free from racial steering in housing as prohibited by 42 U.S.C. Sections 1981, 1982, and 3601 et seq., and the Thirteenth Amendment to the United States Constitution. The claims of plaintiffs are typical of the claims of each of the classes, and each plaintiff fairly and adequately protects the interest of the class which he or she represents. Defendants have acted or refused to act on grounds generally applicable to the respective class which plaintiffs represent, thereby making appropriate final injunctive relief in favor of each plaintiff and of the class he or she represents.

2. Plaintiffs bring this action pursuant to Rule 23(a) and (b) (2) of the Federal Rules of Civil Procedure against the named defendants themselves and as representatives of those persons engaged in the real estate business in Greater Cincinnati, including Hamilton, Butler, Warren, and Clermont Counties, who, for profit, steer persons, on the basis of race, in the purchase of homes in said area.

The requirements of Rule 23 are met in that the class is so numerous that joinder of all members is impracticable; there are questions of law and fact common to the class, the defenses of the representative parties are typical of the defenses of the class; the representative parties will fairly and adequately protect the interests of the class, and the party opposing the class has acted or refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the class as a whole.

3. Jurisdiction of this court is invoked pursuant to 28 U.S.C. §1343 (3) and (4) and 28 U.S.C. §2201. This action is brought pursuant to the Thirteenth Amendment to the United States Constitution to redress the deprivation of rights, privileges and immunities secured thereby. This action is also brought pursuant to 42 U.S.C. §1981 and §1982, to secure the rights of plaintiffs to make and enforce contracts and receive the full and equal benefit of all laws and proceedings for the security of persons and property as enjoyed by white citizens, and to enforce the rights of plaintiffs to inherit, purchase, lease, sell, hold and convey real and personal property on the same basis as white citizens. This action is also brought pursuant to the Fair Housing Act of 1968, 42 U.S.C. §3601 et seq., to enforce the right to purchase a dwelling without discrimination based on race or color and to enforce plaintiffs' rights to live in an integrated community.

4. This is an action for declaratory judgment as to the plaintiffs' rights and the rights of all others similarly situated for an injunction enjoining defendants from maintaining a custom,

policy or practice of racial steering in the sale of housing, which steering is a badge and incident of slavery unlawful under the Thirteenth Amendment to the United States Constitution, 42 U.S.C. §1981 and §1982, and the Fair Housing Act of 1968, 42 U.S.C. 3601 et seq.

5. The plaintiffs in this case are all natural persons as follows:

5.1. Herbert Brown resides at 1233 Toluca Court, Cincinnati, Ohio, 45224.

5.2. James E. Davis resides at 1230 Oak Knoll, Cincinnati, Ohio, 45224.

5.3. Helen Ehooden resides at ¹⁰⁰⁷1006 Marion Street, Cincinnati, Ohio, 45229.

5.4. Barbara Fritz resides at 1234 Paddock Hills Avenue, Cincinnati, Ohio, 45229.

5.5. Bobbie and Paul Freshwater reside at 5515 Hill and Dale, Cincinnati, Ohio, 45213.

5.6. George and Mary Garland Reside at 2116 Henderson Avenue, Wheaton, Maryland, 20902, but formerly resided at 3719 Dogwood Lane, Cincinnati, Ohio, 45213, and have recently sold this residence.

5.7. James Groft resides at 6353 Iris Avenue, Cincinnati, Ohio, 45213.

5.8. Fred Hill resides at 1500 Yarmouth Avenue, Cincinnati, Ohio, 45237.

5.9. Earnestine Jackson resides at 3539 Lumford Place, Cincinnati, Ohio, 45213.

5.10. Jody Licis resides at 6760 Doon Avenue, Cincinnati, Ohio, 45213.

5.11. Marie Nieman resides at 1149 Atwood Avenue, Cincinnati, Ohio, 45224.

5.12. Rosemary Sammons resides at 1299 Paddock Hills Avenue, Cincinnati, Ohio, 45229.

6. The defendants in this case are as follows:

6.1. Federle Realtor is an assumed name of John Federle, an individual, ("defendant Federle") who has offices at 7404 and 11944 Hamilton Avenue, Cincinnati, Ohio, and 7709 John Street, in Pisgah, Ohio.

6.2. Hague Realtors is an assumed name of Harold W. Hague, an individual ("defendant Hague") whose main office is at 7321 Montgomery Road, Cincinnati, Ohio, with four additional offices in Greater Cincinnati.

6.3. M&M Realty, Inc. ("defendant M&M") is an Ohio corporation with a registered office at 7883 Reading Road, Cincinnati, Ohio, six additional sales offices in Hamilton County, one in Clermont County, one in Warren County, two in Butler County, and three in the State of Kentucky.

6.4. Parchman & Oyler Co. ("defendant P&O") is an Ohio corporation with executive offices at 9811 Colerain Avenue, Cincinnati, Ohio.

6.5. Homer Teegarden is a real estate broker with an office at 2089 Sherman Avenue, Cincinnati, Ohio, 45212.

6.6. Defendant Ruth Fernbach is a sales employee of defendant Federle.

6.7. Defendant George Zitt is a sales employee of defendant M&M.

6.8. Defendant Bob Beebe is a sales employee of defendant Hague.

6.9. Defendant Phil Counts is a sales employee of defendant M&M.

6.10. Defendant Betsy Pascal is a sales employee of defendant M&M.

6.11. Defendant Shirley Malloy is a sales employee of defendant M&M.

6.12. Defendant Lafe Dozier is a sales employee of defendant M&M.

6.13. Defendant Norb Baney was a sales employee of defendant Federle, and is now employed by West Shell, Inc.

6.14. Defendant Paul Dillon is a sales employee of defendant M&M.

6.15. Defendant Shirlee Shorthouse is a sales employee of defendant M&M.

6.16. Defendant Bob Foote is a sales employee of defendant P&O.

6.17. Defendant Bill Reed is a sales employee of defendant Hague.

6.18. Defendant Rose DeBorde is a sales employee of defendant Hague.

7. Plaintiffs, who are residents of integrated or transitional neighborhoods, allege that defendants, their agents, and employees, acting individually and collectively have engaged in steering white prospective home buyers away from transitional neighborhoods and to predominately white neighborhoods. At the same time defendants have steered black prospective buyers away from predominately white neighborhoods to transitional neighborhoods. As a result of this racial steering, homes have been made unavailable to white buyers in transitional neighborhoods and homes have been made unavailable to black buyers in white neighborhoods. The effect of this racial steering has been a

rising percentage of blacks in transitional neighborhoods which if permitted to continue will result in resegregation of the neighborhoods.

8. Plaintiffs further allege that such racial steering has had the effect of removing homes in their neighborhood from the consideration of the "white" market. This reduces the demand for such housing and has the effect of reducing property values from what they would be in a truly open market.

9. Plaintiffs further allege that the resegregation of their neighborhood will (1) deprive them of the social benefits of living in an integrated community; and, (2) deprive them of the business and professional advantages of living in an integrated community.

10. The particular acts of defendants of which plaintiffs complain are as follows:

✓ 10.1. On or about July 25, 1973, defendant Betsy Pascal, acting within the scope of her employment by and at the offices of defendant M&M, for profit, attempted to steer and channel Thomas Leclair because he was white, to an all-white neighborhood.

✓ 10.2. On or about September 13, 1973, defendant Homer Teegarden refused to deal with Paulette Carter because she was black.

✓ 10.3. On or about July 17, 1973, defendant Shirley Malloy, acting within the scope of her employment by and at the offices of defendant M&M, for profit, attempted to steer and channel plaintiffs James Davis and Charlene Davis, because they were black to a transitional neighborhood.

✓ 10.4. On or about October 5, 1973, defendant Bob Beebe, acting within the scope of his employment by and at the offices

of defendant Hague, for profit, attempted to steer and channel Tom and Peggy Rattray, because they were white, to all white neighborhoods.

✓ 10.5. On or about July 22, 1973, defendant George Zitt, acting within the scope of his employment by and at the offices of defendant M&M, for profit, attempted to steer and channel Suzy and Richard Chartoof, because they were white, to all-white neighborhoods.

✓ 10.6. On or about July 16, 1973, defendants Phil Counts and Lafe Dozier, acting within the scope of their employment by and at the offices of defendant M&M, for profit, attempted to steer and channel Gene and Mary Kay Gardner because they were white, to all-white neighborhoods.

✓ 10.7. On or about July 17, 1973, defendant Lafe Dozier, acting within the scope of his employment by and at the offices of defendant M&M, for profit, attempted to steer and channel Fred and Eula Hill, because they were black, to transitional neighborhoods.

✓ 10.8. On or about June 2, 1973, defendant Norb Baney, acting within the scope of his employment by and at the offices of defendant Federle, for profit, attempted to steer and channel Dean and Brenda Butler, because they were white, to an all-white neighborhood.

✓ 10.9. On or about June 18, 1973, defendant Norb Baney, acting within the scope of his employment by and at the offices of defendant Federle, for profit, attempted to steer and channel Fred and Eula Hill, because they were black, to transitional neighborhoods.

✓ 10.10. On or about July 29, 1973, defendant Ruth Fernbach, acting within the scope of her employment by and at

the offices of defendant Federle, for profit, attempted to steer and channel Suzy Chartoff, because she is white, to all-white neighborhoods.

✓10.11. On or about July 1, 1973, defendant Bob Foote, acting within the scope of his employment, by and at the offices of defendant P&O, for profit, attempted to steer and channel James Groft, because he was white, to all-white neighborhoods.

✓10.12. On or about October 4, 1973, defendant Bill Reed, acting within the scope of his employment, by and at the offices of defendant Hague, for profit, attempted to steer and channel Marjorie Isaacs, because she was white, to all-white neighborhoods.

✓10.13. On or about May 6, 1973, defendant Shirley Malloy, acting within the scope of her employment, by and at the offices of defendant M&M, for profit, attempted to steer and channel Robert and Vicki Nebuda, because they were white, to all-white neighborhoods.

✓10.14. On or about May 4, 1973, defendant Paul Dillon, acting within the scope of his employment by and at the offices of defendant M&M, for profit, attempted to steer and channel James and Barbara Blynden, because they were black, to transitional neighborhoods.

✓10.15. On or about August 29, 1972, defendant Shirlee Shorthouse, acting within the scope of her employment by and at the offices of defendant M&M, for profit, attempted to steer and channel Angela Anderson and Sue Warner, because they were white, to all-white neighborhoods.

✓10.16. On or about September 25, 1972, defendant Shirlee Shorthouse, acting within the scope of her employment by and at the offices of defendant M&M, for profit, attempted to steer and channel Nelda Billups, because she was black, to transitional neighborhoods.

11. The foregoing specific complaints are not exhaustive of the violations of 42 U.S.C. Sections 1981, 1982 and 3601 et seq., by defendants, but are merely illustrative of the violations of which plaintiffs have been and are being subjected.

12. As a result of the defendants' above stated actions, members of plaintiffs class will suffer depreciation of property values and are in danger of being re-segregated.

13. Plaintiffs are individually and as a group financially unable to bear the attorneys' fees and the costs and expense of this action.

WHEREFORE, plaintiffs pray that the court advance this case on the docket, and issue a preliminary and permanent injunction which enjoins the named defendants from:

A. Discriminating against any persons or group of persons on account of race, color, religion, or national origin in any aspect of the sale or rental of dwellings;

B. Denying or otherwise making any dwelling unavailable to any person on account of race, color, religion, or national origin.

C. Intentionally influencing or attempting to influence any prospective purchaser's locational choice on account of race, color, religion, or national origin.

D. Making or causing to be made statements with respect to the sale or rental of dwellings indicating a preference or discrimination by owner, neighbors, or company on account of race, color, religion, or national origin.

E. Failing or refusing to deal with brokers on account of the race of their clients.

F. Discouraging white persons from moving into areas on account of race, color, religion, or national origin of the present residents.

G. Steering white persons away from transitional neighborhoods and to all-white neighborhoods.

H. Steering black persons away from all-white neighborhoods to all-black or transitional neighborhoods.

Plaintiffs further pray that this court issue an order directed to defendants requiring them to show cause why a preliminary injunction should not be issued as prayed for above.

Plaintiffs further demand that the court award plaintiffs their reasonable attorneys' fees in this action together with court costs, and for such additional relief as the interests of justice require.

Robert F. Laufman
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Cincinnati, Ohio 45219
Telephone: 721-1555

Trial Attorney for Plaintiffs

Mitchell B. Goldberg
911 First National Bank Building
Cincinnati, Ohio 45202
Telephone: 241-8137

Attorney for Plaintiffs

STATE OF OHIO
COUNTY OF HAMILTON SS:

The undersigned, being all of the above named plaintiffs in this action, hereby state that the allegations contained in

this complaint are true to the best of their knowledge and belief.

James Groft

Herbert Brown

Fred Hill

James E. Davis

Earnestine Jackson

Helen Ehooden

Jody Licis

Barbara Fritz

Marie Nieman

Paul Freshwater

Rosemary Sammons

Bobbie Freshwater

George Garland

Mary Garland

Sworn to before me and signed in my presence this _____ day of _____, 197_____.

Notary Public