

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

**NIGHT BOX
FILED**
JUL 22 2002
CLARENCE MADDOX
CLERK, USDC / SDFL / MIA

CASE NO. 01-3766 CIV-HIGHSMITH/TURNOFF

MARY REESE, et al.)
)
Plaintiffs,)
)
)
vs.)
)
)
MIAMI-DADE COUNTY, et al.)
)
Defendants.)
)
_____)

**MIAMI-DADE COUNTY AND RENE RODRIGUEZ
ANSWER AND AFFIRMATIVE DEFENSES TO
PLAINTIFFS' CLASS ACTION COMPLAINT**

Miami-Dade County (the "County") and Rene Rodriguez (collectively referred to as the "County Defendants"), by and through undersigned counsel, file their Answer and Affirmative Defenses to Plaintiffs' Class Action Complaint and state:

ANSWER

I. PRELIMINARY STATEMENT

1. County Defendants deny the allegations in Paragraphs 1, 2, and 3.
2. County Defendants are without sufficient knowledge to admit or deny Paragraph 4.

II. JURISDICTION AND VENUE

3. County Defendants admit the allegations in Paragraphs 5, 6, 7 and 9.

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4. County Defendants are without sufficient knowledge to admit or deny Paragraph 8.

III. PARTIES

5. County Defendants admit the allegations in Paragraph 10.

6. County Defendants admit the allegations to Paragraph 11 to the extent that Plaintiff Velma Bailey is a resident of Miami-Dade County. County Defendants deny that Plaintiff Velma Bailey is a current resident of Scott Homes since she relocated to new housing and is presently renting a unit using one of the County's Section 8 vouchers.

7. County Defendants deny the allegations in Paragraph 12 to the extent that Plaintiff Herbert Jones is not a party to this action since Plaintiff Shanlavie Jenkins was substituted for him. County Defendants further assert that Plaintiff Shanlavie Jenkins was dismissed from this action for lack of standing.

8. County Defendants deny the allegations in Paragraph 13 to the extent that Plaintiff Patricia Sanders was dismissed from this action for lack of standing.

9. County Defendants deny the allegations in Paragraph 14 to the extent that Plaintiff Low Income Families Fighting Together ("L.I.F.F.T.") was dismissed from this action for lack of standing.

10. County Defendants admit the allegations in Paragraphs 15, 16 and 17.

11. County Defendants are without sufficient knowledge to admit or deny Paragraphs 18 and 19.

IV. CLASS ACTION ALLEGATIONS

12. County Defendants admit the allegation in Paragraph 20 to the extent that this is action brought pursuant to Fed. R. Civ. P. 23(a) and (23(b)(1), (b)(2). County

Defendants deny all allegations related to all African-American families who currently are, or will in the future be, on the Miami-Dade Housing Agency public housing waiting list because they have been dismissed for lack of standing from this action.

13. County Defendants admit, in part, the allegations in Paragraph 21. County Defendants, however, deny all allegations that relate to all African-American families who currently are, or will in the future be, on the Miami-Dade Housing Agency public housing waiting list because they have been dismissed for lack of standing from this action.

14. County Defendants deny the allegations in Paragraphs 22, 23, 24, 25 and 26.

V. STATUTORY AND REGULATORY SCHEME

15. With regard to the allegations in Paragraphs 27, 28, 29, 30, and 31, County Defendants assert that the statutes, regulations and HUD HOPE VI Guidebook speak for themselves.

16. With regard to the allegations in Paragraphs 32 and 33, County Defendants assert that the statutes and regulations pertaining to the Uniform Relocation and Real Property Acquisition Act speak for themselves.

17. With regard to the allegations in Paragraphs 34 and 35, County Defendants assert that the statutes and regulations pertaining to the Housing and Community Development Act speak for themselves.

18. With regard to the allegations in Paragraphs 36 and 37, County Defendants assert that the statutes pertaining to the Fair Housing Act speak for themselves.

19. With regard to the allegation in Paragraph 38, County Defendants assert that the statute pertaining to the Quality Housing and Work Responsibility Act speaks for itself.

20. With regard to the allegation in Paragraph 39, County Defendants assert that the statute pertaining to the Civil Rights Act speaks for itself.

21. With regard to the allegations in Paragraphs 40, 41 42, and 43, County Defendants assert that the statutes and regulations pertaining to the National Environmental Policy Act speak for themselves.

VI. STATEMENT OF FACTS

22. County Defendants admit the allegations in Paragraphs 44, 45, and 46.

23. County Defendants deny the allegation in Paragraph 47.

24. County Defendants are without sufficient knowledge to admit or deny Paragraph 48.

25. County Defendants deny the allegation in Paragraph 49.

26. County Defendants are without sufficient knowledge to admit or deny Paragraph 50.

27. County Defendants admit the allegations in Paragraph 51 to the extent that Miami-Dade Housing Agency has a public housing waiting list. However, County Defendants are without sufficient knowledge to admit or deny the remainder of the allegations.

28. County Defendants admit the allegation in Paragraph 52 to the extent that Miami-Dade Housing Agency opened its waiting list for ten (10) days and that it received

approximately 63,000 applications. However, County Defendants are without sufficient knowledge to admit or deny the remainder of the allegations.

29. County Defendants admit the allegations in Paragraph 53.

30. County Defendants are without sufficient knowledge to admit or deny Paragraph 54.

31. County Defendants deny the allegations in Paragraphs 55, 56, 57, 58 and 59.

32. County Defendants admit the allegations in Paragraphs 60, 61, 62, 63 and 64.

33. County Defendants deny the allegations in Paragraphs 65, 66, 67 and 68.

34. With regard to the allegations in Paragraph 69, County Defendants assert that Miami-Dade County Resolution No. 01-1002 speaks for itself.

35. County Defendants deny the allegations in Paragraphs 70, 71, 72, 73, 74, 75, 76, 77, 78, and 79.

36. County Defendants are without sufficient knowledge to admit or deny Paragraph 80.

37. County Defendants deny the allegations in Paragraphs 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, and 101.

CLAIMS FOR RELIEF

FAIR HOUSING/CIVIL RIGHTS CLAIMS

FIRST CLAIM FOR RELIEF

38. County Defendants repeat and reallege each and every response contained in Paragraphs 1 through 37 of this Answer as though fully set forth herein.

39. County Defendants deny the allegation in Paragraph 103.

SECOND CLAIM FOR RELIEF

40. County Defendants repeat and reallege each and every response contained in Paragraphs 1 through 37 of this Answer as though fully set forth herein.

41. County Defendants deny the allegation in Paragraph 105.

THIRD CLAIM FOR RELIEF

42. County Defendants repeat and reallege each and every response contained in Paragraphs 1 through 37 of this Answer as though fully set forth herein.

43. County Defendants deny the allegations in Paragraphs 107 and 108.

FOURTH CLAIM FOR RELIEF

44. County Defendants repeat and reallege each and every response contained in Paragraphs 1 through 37 of this Answer as though fully set forth herein.

45. County Defendants deny the allegation in Paragraph 110.

FIFTH CLAIM FOR RELIEF

46. County Defendants repeat and reallege each and every response contained in Paragraphs 1 through 37 of this Answer as though fully set forth herein.

47. County Defendants are without sufficient knowledge to admit or deny Paragraph 112.

SIXTH CLAIM FOR RELIEF

48. County Defendants repeat and reallege each and every response contained in Paragraphs 1 through 31 of this Answer as though fully set forth herein.

49. County Defendants are without sufficient knowledge to admit or deny Paragraph 114.

SEVENTH CLAIM FOR RELIEF

50. County Defendants repeat and reallege each and every response contained in Paragraphs 1 through 37 of this Answer as though fully set forth herein.

51. County Defendants deny the allegation in Paragraph 116.

EIGHTH CLAIM FOR RELIEF

52. County Defendants repeat and reallege each and every response contained in Paragraphs 1 through 37 of this Answer as though fully set forth herein.

53. County Defendants deny the allegation in Paragraph 118.

NINTH CLAIM FOR RELIEF

54. County Defendants repeat and reallege each and every response contained in Paragraphs 1 through 37 of this Answer as though fully set forth herein.

55. County Defendants are without sufficient knowledge to admit or deny Paragraph 120.

TENTH CLAIM FOR RELIEF

56. County Defendants repeat and reallege each and every response contained in Paragraphs 1 through 37 of this Answer as though fully set forth herein.

57. County Defendants deny the allegation in Paragraph 122.

OTHER STATUTORY CLAIMS

ELEVENTH CLAIM FOR RELIEF

58. County Defendants repeat and reallege each and every response contained in Paragraphs 1 through 37 of this Answer as though fully set forth herein.

59. With regard to the allegations in Paragraph 124, County Defendants assert that the statute pertaining to the Housing and Community Development Act requirements speak for themselves.

60. County Defendants deny the allegation in Paragraph 125.

TWELFTH CLAIM FOR RELIEF

61. County Defendants repeat and reallege each and every response contained in Paragraphs 1 through 37 of this Answer as though fully set forth herein.

62. With regard to the allegations in Paragraph 127, County Defendants assert that the statute pertaining to the Housing and Community Development Act requirements speak for themselves.

63. County Defendants deny the allegation in Paragraph 128.

THIRTEENTH CLAIM FOR RELIEF

64. County Defendants repeat and reallege each and every response contained in Paragraphs 1 through 37 of this Answer as though fully set forth herein.

65. County Defendants are without sufficient knowledge to admit or deny Paragraph 130.

FOURTEENTH CLAIM FOR RELIEF

66. County Defendants repeat and reallege each and every response contained in Paragraphs 1 through 37 of this Answer as though fully set forth herein.

67. County Defendants deny all allegations in Paragraphs 132, 133, 134, and 135, and the Uniform Relocation Act claim against County Defendants was dismissed pursuant to the Court's July 2, 2002 Order.

FIFTEENTH CLAIM FOR RELIEF

68. County Defendants repeat and reallege each and every response contained in Paragraphs 1 through 37 of this Answer as though fully set forth herein.

69. County Defendants are without sufficient knowledge to admit or deny Paragraphs 137 and 138.

AFFIRMATIVE DEFENSES

In response to Plaintiffs' Class Action Complaint, County Defendants assert the following affirmative defenses:

FIRST AFFIRMATIVE DEFENSE

Plaintiffs' claims under the Fair Housing Act are not ripe for adjudication and therefore the Court lacks jurisdiction over the subject matter.

SECOND AFFIRMATIVE DEFENSE

Plaintiffs' claims under the Civil Rights Act are not ripe for adjudication and therefore the Court lacks jurisdiction over the subject matter.

THIRD AFFIRMATIVE DEFENSE

Plaintiffs' claims under the Equal Protection Clause are not ripe for adjudication and therefore the Court lacks jurisdiction over the subject matter.

FOURTH AFFIRMATIVE DEFENSE

Plaintiffs fail to state a claim upon which relief can be granted for alleged violations of the Housing and Community Development Act because the requirements of the Act do not apply to County Defendants' HOPE VI Revitalization Plan.

FIFTH AFFIRMATIVE DEFENSE

Plaintiffs fail to state a claim upon which relief can be granted for alleged violations of the Quality Housing Work Responsibility Act does not provide a private cause of action.

WHEREFORE, Miami-Dade County and Rene Rodriguez respectfully request that this Court:

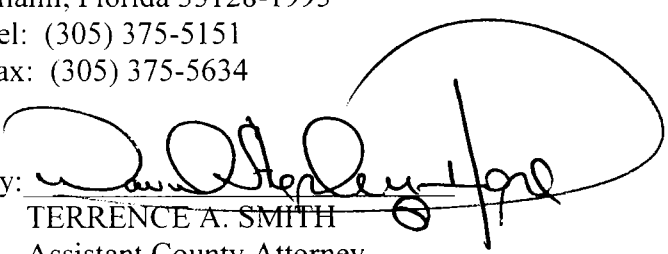
(1) Deny Plaintiffs' requests for relief and enter judgment in favor of County Defendants and dismissing the Class Action Complaint with prejudice; and

(2) Grant County Defendants such other and further relief as this Court deems just and proper.

Respectfully submitted,

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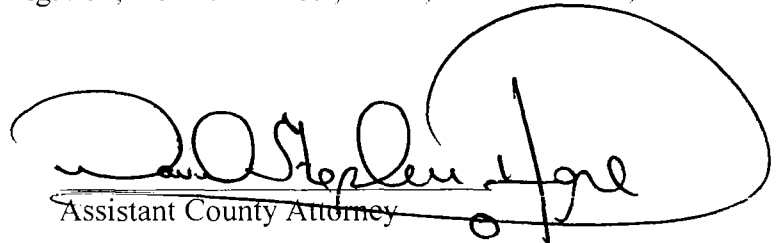

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was mailed this 22nd day of July, 2002, to: Charles Elsesser, Esq., Florida Legal Services, Inc., Miami Advocacy Office, 3000 Biscayne Blvd, Suite 450, Miami, Florida 33137; JoNel Newman, Florida Justice Institute, First Union Financial Center, Suite 2870, 200 South Biscayne Boulevard, Miami, Florida 33131-2310; Benjamine Reid, Carlton Fields, 4000 Nations Bank Tower, 100 S.E. 2nd Street, Miami, Florida 33131-2100; Todd Espinosa, National Housing Law Project, 614 Grand Avenue, Suite 320, Oakland, California 94610; Laura W. Bonn, Assistant U.S. Attorney, 99 N.E. 4th Street, Suite 300, Miami, Florida 33132; Clare Harrigan, U.S. Department of H.U.D., Office of Litigation, 451 7th Street, S.W., Room 10258, Washington, D.C. 20410.


Assistant County Attorney