

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA**

ALBANY DIVISION

QUEEN KING, SHARON JOHNSON, and)
EVELYN REED, on behalf of themselves and)
all others similarly situated;)
BONITA MAYS, individually; and the)
CONCERNED CITIZENS COMMITTEE)
OF BLAKELY & EARLY COUNTY, GA,)
)
Plaintiffs,) Civil Action No.
)
22.) Class Action
)
CITY OF BLAKELY HOUSING AUTHORITY;)
CITY OF BLAKELY, GEORGIA;)
and DAN COOPER, individually and)
in his representative capacity,)
)
Defendants.)
)

**COMPLAINT FOR DECLARATORY,
INJUNCTIVE, AND MONETARY RELIEF**

INTRODUCTION

1. This complaint is brought as a class action against the City of Blakely Housing Authority ("BHA"), City of Blakely, and Dan Cooper, both individually and in his official capacity, under the Fair Housing Act, as amended, 42 U.S.C. §3601, *et seq.*; Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, and its implementing regulations, 24 C.F.R. § 1, *et seq.*; the Thirteenth and Fourteenth Amendments to the United States Constitution and 42 U.S.C. §§ 1982 and 1983; the Georgia Fair Housing Law, Ga. Code Ann. § 8-3-200, *et seq.*, and its implementing regulations, Ga. Comp. R. & Regs. 186-2-.02 (1) and (2) (1998); and Article I, § 1, Part V of the Constitution of the State of Georgia.

2. Specifically, Defendants have acted to establish, maintain, and perpetuate a racially-segregated unequal system of low-income public housing and have failed to disestablish that system of public housing. Defendants have also subjected tenants of the Blakely Housing Authority to different terms and conditions in the rental of housing on the basis of race and/or color and have engaged in retaliatory conduct because of the attempts by certain class members to exercise their rights under the amended Fair Housing Act and

the free speech provisions of the Constitution of the State of Georgia to challenge Defendants' discriminatory conduct.

3. Queen King, Sharon Johnson, and Evelyn Reed ("class representatives") bring this action as a class action on behalf of themselves and all others similarly situated for declaratory and injunctive relief and for monetary damages incidental thereto. Queen King and Sharon Johnson, along with Bonita Mays and the Concerned Citizens Committee of Blakely and Early County, GA ("Concerned Citizens Committee" or "the Committee"), also bring this action individually for damages (collectively, along with the class representatives, referred to as "Plaintiffs").

JURISDICTION AND VENUE

4. Jurisdiction is conferred on this Court pursuant to 42 U.S.C. § 3601, *et seq.*, in that this action involves violations of the amended Fair Housing Act; 42 U.S.C. § 1331, in that this is an action arising under the Constitution, laws, or treaties of the United States; and 28 U.S.C. § 1343(a)(3), because this complaint alleges deprivation of Plaintiffs' constitutional rights under color of law.

5. This Court has supplemental jurisdiction over Plaintiffs' state law claims pursuant to 28 U.S.C. § 1367(a).

6. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b), in that Defendant City of Blakely, Georgia ("City") is a municipality located in this jurisdiction, Defendant Blakely Housing Authority ("BHA") is an instrumentality of Defendant City of Blakely, Georgia, located in this jurisdiction, and Defendant Dan Cooper ("Cooper") is a resident of this jurisdiction. Moreover, all of the events giving rise to this complaint occurred in this jurisdiction and the property that is at issue is located in this jurisdiction.

PARTIES

7. Queen King, Sharon Johnson, Evelyn Reed, and Bonita Mays (collectively referred to as "individual plaintiffs") are adult African-American women who are either former or current tenants of the Blakely Housing Authority who were subjected to Defendants' discriminatory housing practices and policies.

8. The Concerned Citizens Committee is an organization located in Blakely, Georgia, that advocates for the civil rights, including fair housing rights, of others in and around the City of Blakely, Georgia. The Committee engages in activities to counteract and eliminate discrimination and protect the rights of its members and constituents to enjoy the benefits of living and working in a non-discriminatory environment. As a result of Defendants' discriminatory conduct, the Committee's resources have been diverted and its efforts have been frustrated. Furthermore, the Committee is a membership organization, whose members include all of the class representatives and individual plaintiffs, who each have standing to bring this lawsuit in their own right.

9. The City is a municipal corporation organized under the laws of the State of Georgia. The City established the BHA to manage its public housing. The City appoints the Board of Directors and funds the activities of the BHA and acts in concert with it in carrying out its housing and redevelopment programs. The City is a recipient of federal financial assistance within the meaning of 42 U.S.C. § 2000d.

10. BHA is a municipal housing authority organized under the laws of the State of Georgia by the City of Blakely. BHA operates and administers a system of low-income public housing in and for the City, including conventional public housing, pursuant to the U.S. Housing Act of 1937. BHA owns and operates five public housing projects in and around the City of Blakely, with a total of approximately 160 units of rental housing. BHA is governed by a Board of Directors and managed by an Executive Director. BHA is a recipient of federal financial assistance within the meaning of 42 U.S.C. § 2000d.

11. Defendant Cooper is the Executive Director of BHA, a position he has held since 1994. Defendant Cooper's appointment as Executive Director of BHA was endorsed by the Board of Directors of the BHA and he answers directly to that Board. Defendant Cooper is responsible for the management of BHA and the enforcement of its rules and regulations. As such, he is responsible for establishing final policy with respect to Defendant BHA and public housing in Defendant City of Blakely.

CLASS ACTION ALLEGATIONS

12. The class representatives bring this action as a class action pursuant to Rule 23(b)(2) of the Federal Rules of Civil Procedure on their own behalf and on behalf of a class consisting of all former, current, and future African-American tenants and applicants of BHA who were, are, or will be subjected to the continuing racial segregation and discrimination and the conditions and effects thereof as alleged herein in contravention of the Constitution and federal and state statutes ("the Class").

13. The members of the Class are so numerous that the joinder of all members is impractical. *See* F.R.C.P. 23(a)(1). While the exact number of the class members is unknown at this time and can only be ascertained through appropriate discovery, Plaintiffs believe that there are at least 315 individuals who were or continue to be subject to the discriminatory practices alleged herein. Moreover, the number of future class members cannot be discerned with any precision.

14. There are questions of law and fact common to the Class, as required by Rule 23(a)(2) of the Federal Rules of Civil Procedure. The common questions include whether the Defendants' practices and policies alleged herein violated the Class' rights under (a) the Fair Housing Act, as amended, 42 U.S.C. §§ 3601, *et seq.*; (b) Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, and its implementing regulations, 24 C.F.R. § 1, *et seq.*; (c) the Thirteenth and Fourteenth Amendments to the United States Constitution and 42 U.S.C. §§ 1982 and 1983; (d) the Georgia Fair Housing Law, Ga. Code Ann. § 8-3-200, *et seq.*, and its implementing regulations, Ga. Comp. R. & Regs. 186-2-.02 (1) and (2) (1998); and (e) Article I, § 1, Part V of the Constitution of the State of Georgia.

Common questions also include whether Defendants have established a policy or practice of racial segregation of housing at BHA and whether Defendants subjected the Class to different terms and conditions in the rental of BHA housing.

15. The claims of the class representatives are typical of the claims of the other members of the Class and all members of the Class sustained injuries arising out of Defendants' wrongful conduct complained of herein. *See* F.R.C.P. 23(a)(3).

16. The class representatives will fairly and adequately protect the interests of the members of the Class, as required by Rule 23(a)(4) of the Federal Rules of Civil Procedure, and are represented by counsel who are qualified, experienced, and able vigorously to prosecute this action.

17. This class action is maintainable under Rule 23(b)(2) of the Federal Rules of Civil Procedure because Defendants have acted or refused to act on grounds generally applicable to the Class by establishing and perpetuating racially segregative policies and practices and by treating the Class less favorably than non-minority BHA residents, thereby making appropriate final injunctive relief and corresponding declaratory relief with respect to the class as a whole.

BACKGROUND AND FACTS

Establishment, Maintenance, and Perpetuation of Racially-Segregated Housing

18. BHA owns and operates the following five public housing projects: (a) Cedar Hill Homes; (b) Willis Cain Homes; (c) Cedar Hill Homes II; (d) Willis Cain Homes II; and (e) Baptist Branch Homes.

19. Since its establishment, Defendant BHA has racially-segregated its housing projects, with African-American residents concentrated in certain projects and white residents concentrated in others.

20. The Board of Directors of Defendant BHA and Defendant Cooper have maintained and perpetuated that segregation up to the present and have failed to take appropriate measures to disestablish that segregation.

21. With the exception of Cedar Hill Homes II, which has been reserved almost exclusively for whites since it was built, the other four projects operated by BHA are currently over 90% occupied by African Americans, with few or no white residents.

22. BHA has a written policy for admission into its low-income housing that sets forth admission preferences. BHA maintains a waiting list for admission based on the size of the unit and the applicant's number of preferences. These preferences include, in order of priority, whether the applicant is (a) elderly or handicapped, (b) a working family, (c) living in substandard housing, or (d) a resident of Early County for the past twenty-four months.

23. During Defendant Cooper's tenure as Executive Director of BHA, he has placed at least four tenants in Cedar Hill Homes II, all of whom were white.

24. In placing at least two of those tenants in Cedar Hill Homes II, Defendant Cooper selected white applicants over African-American applicants who were higher on the waiting list and had more preferences.

25. Defendants' segregative practices and policies have continued through the present.

26. Defendant City of Blakely is a recipient of federal housing and community development funding and, as such, is required to administer all programs and activities related to housing and community development in a manner to affirmatively further fair housing, pursuant to § 808 of the Fair Housing Act, as amended, 42 U.S.C. § 3608, and 24 C.F.R. § 570.601.

27. Upon information and belief, Defendant City of Blakely has certified to the U.S. Department of Housing and Urban Development that it has and will affirmatively further fair housing in order to receive federal housing and community development funding.

28. During his tenure as Executive Director of BHA, Defendant Cooper has made statements indicating his intention to maintain racial segregation in BHA housing.

Different Terms and Conditions of Rental Because of Race

29. Defendants BHA and Cooper implemented a written policy relating to guest visitation. That policy prohibits any activity or conduct that poses a safety or health risk and states that non-residents who violate the policy shall be barred from BHA property.

30. Defendant Cooper has repeatedly and continually enforced that policy, many times improperly, against the African-American residents of BHA, while not enforcing that policy against white residents.

31. Defendant Cooper also had a practice of driving through the areas of the BHA where the residents were predominantly African American and detaining and harassing those tenants and their guests, generally without provocation. Defendant Cooper did not engage in that same conduct in Cedar Hill Homes II, where the residents are predominantly white.

32. Defendant Cooper routinely threatened African-American residents with eviction, both properly and improperly, and pursued such evictions aggressively. Defendant Cooper did not, however, treat white tenants similarly.

33. Defendant Cooper routinely verbally harassed African-American tenants by directing racial epithets and other derogatory terms at them, while not treating white tenants in a similar manner.

34. Defendants also cut down all the trees in Cedar Hill Homes, which is predominantly African American, while leaving the trees standing in nearby Cedar Hill Homes II, which is exclusively white. This had the effect of making Cedar Hill Homes a less desirable place to reside.

35. Defendants have also installed outside surveillance video cameras in Cedar Hill Homes, which is predominantly African American, while not installing such cameras in nearby Cedar Hill Homes II, which is exclusively white. As a result, African-American tenants in Cedar Hill feel threatened and intimidated.

Retaliatory Conduct

36. Because of Defendant Cooper's conduct in harassing African-American tenants and their guests, by early 1996, the individual plaintiffs had begun forming a tenants' association consisting of BHA public housing residents.

37. Plaintiff King, with the assistance of the Concerned Citizens Committee, led the effort to form the tenants' association, whose primary purpose was to contest the discriminatory conduct of Defendant BHA in general and Defendant Cooper in particular.

38. On or about May 30, 1996, Plaintiff King attended a meeting of the BHA Board of Directors to request a hearing to introduce the tenants' association. After this meeting, Defendants engaged in numerous acts of retaliation and harassment against members of the tenants' association, including the individual plaintiffs.

39. This retaliatory conduct included sending Plaintiff King an eviction notice the day after she attended the BHA Board of Directors meeting to request a hearing to introduce the tenants' association.

40. Although the eviction proceeding was ultimately settled, Defendant Cooper continued his campaign of harassment against Plaintiff King by, among other things, attempting to transfer Plaintiff King and her three daughters from a four bedroom apartment to a two bedroom apartment and increasing her rent more than six fold.

41. In late 1997, Plaintiffs King, Mays, and other members of the Class participated in a public demonstration denouncing BHA's discriminatory practices. Defendant Cooper retaliated against Plaintiffs King and Mays for their participation in the demonstration by subjecting them to acts of harassment, which included refusing to accept tendered rent payments and instituting eviction proceedings.

42. Upon information and belief, Defendants' retaliatory conduct has continued through the present.

Fair Housing Investigation

43. In and around February of 1998, Plaintiffs and other class members filed complaints alleging housing discrimination with the U.S. Department of Housing and Urban Development (HUD), pursuant to 42 U.S.C. § 3601, *et seq.*

44. HUD subsequently referred those complaints to the Georgia Commission on Equal Opportunity ("the Commission"), pursuant to 42 U.S.C. § 3610(f).

45. The Commission investigated those complaints and, on June 28, 1998, issued a Charge of Discrimination and Summary of Findings. Based on its investigation, the Commission found reasonable cause to believe that a discriminatory practice had occurred.

INJURIES SUFFERED

46. The discriminatory actions of Defendants described above were intentional, willful, and taken in disregard for the rights of the Class.

47. As a result of Defendants' racially discriminatory conduct, class members suffered discrimination, segregation, separate and unequal living conditions, and humiliation and emotional injury incident thereto.

48. Moreover, the unlawful conduct of Defendants caused the Concerned Citizens Committee to suffer damages in the form of economic loss, through the expenditure of resources to identify and counteract Defendants' racially discriminatory conduct and frustration of purpose of its mission of promoting non-discrimination.

CAUSES OF ACTION

49. Plaintiffs repeat and reallege paragraphs 1-48.

Title VIII of the Civil Rights Act of 1964 (Federal Fair Housing Act)

50. As a result of Defendants' conduct as described herein, Plaintiffs are aggrieved persons within the meaning of § 802(i) of the Fair Housing Act, as amended, 42 U.S.C. § 3602(i), and have suffered damages.

42 U.S.C. § 3604(a)

51. By selecting white applicants over African-American applicants, who were in higher positions on the waiting list and who had more preferences in accordance with BHA's own policies, Defendants violated § 804(a) of the Fair Housing Act, as amended, 42 U.S.C. § 3604(a), in that they refused to rent, otherwise made unavailable, or denied dwellings on the basis of race.

42 U.S.C. § 3604(b)

52. By establishing and maintaining racially-segregated public housing, Defendants have violated § 804(b) of the Fair Housing Act, as amended, 42 U.S.C. § 3604(b), in that they discriminated in the terms, conditions, or privileges of rental of dwellings based on race.

53. Defendants have also discriminated in the terms, conditions, or privileges of rental of dwellings based on race, as well as in the provision of facilities in connection therewith, in violation of §804(b) of the Fair Housing Act, as amended, 42 U.S.C. § 3604 (b), by treating African-American tenants less favorably than white tenants. For example, Defendants harassed, interrogated, and threatened African-American tenants and their guests while not treating white tenants in a similar manner. Defendants also lessened the enjoyment of the homes of the tenants in Cedar Hill Homes, which is predominantly African American, by cutting down the trees and installing video surveillance cameras, while not cutting down the trees or installing video surveillance cameras in nearby Cedar Hill Homes II, which is exclusively white.

42 U.S.C. § 3604(c)

54. By making statements indicating an intent to maintain segregated public housing, Defendants violated § 804(c) of the Fair Housing Act, as amended, 42 U.S.C. § 3604(c), in that they made statements indicating a preference, limitation, or discrimination based on race.

42 U.S.C. § 3617

55. By engaging in harassing and retaliatory conduct in response to the attempt by certain class members to form a tenants' association and otherwise to protest the discriminatory conduct of Defendants, Defendants violated § 818 of the Fair Housing Act, as amended, 42 U.S.C. § 3617, in that they intimidated, threatened, or interfered with certain class members in the exercise or enjoyment of, on account of certain class members having exercised or enjoyed, or on account of certain class members aiding or encouraging others in the exercise or enjoyment of, rights granted or protected by § 804 of the amended Fair Housing Act.

42 U.S.C. § 3608

56. By establishing, maintaining, and failing to disestablish their segregated public housing, as well as engaging in racially discriminatory housing practices, Defendants City of Blakely and BHA have failed affirmatively to further fair housing, in violation of 42 U.S.C. § 3608 and 24 C.F.R. § 1, *et seq.*

Title VI of the Civil Rights Act of 1964

57. As a recipient of federal financial assistance and by engaging in discriminatory conduct against the Class, Defendants violated Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, *et seq.*, and its implementing regulations at 24 C.F.R. § 1, *et seq.*

Thirteenth and Fourteenth Amendments to the

United States Constitution and 42 U.S.C. §§ 1982 and 1983

58. By engaging in discriminatory conduct, including under color of state law, against the Class and individual plaintiffs, Defendants violated the Thirteenth and Fourteenth Amendments to the United States Constitution and 42 U.S.C. §§ 1982 and 1983.

Ga. Code Ann. §§ 8-3-202(a) and 8-3-222 (Georgia Fair Housing Law)

59. As a result of Defendants' conduct as described herein, Plaintiffs are aggrieved persons within the meaning of the Georgia Fair Housing Law, Ga. Code Ann. § 8-3-201(2), and have suffered damages.

Ga. Code Ann. § 8-3-202(a)(1)

60. By selecting white applicants over African-American applicants, who were in higher positions on the waiting list and who had more preferences in accordance with BHA's own policies, Defendants violated the Georgia Fair Housing Law, Ga. Code Ann. § 8-3-202(a)(1), in that they refused to rent, otherwise made unavailable, or denied dwellings on the basis of race.

Ga. Code Ann. § 8-3-202(a)(2)

61. By establishing and maintaining racially-segregated public housing, Defendants have violated the Georgia Fair Housing Law, Ga. Code Ann. § 8-3-202(a)(2), in that they discriminated in the terms, conditions, or privileges of rental of dwellings based on race.

62. Defendants have also discriminated in the terms, conditions, or privileges of rental of dwellings based on race, as well as in the provision of facilities in connection therewith, in violation of the Georgia Fair Housing Law, Ga. Code Ann. § 8-3-202(a)(2), by treating African-American tenants less favorably than white tenants. For example, Defendants harassed, interrogated, and threatened African-American tenants and their guests while not treating white tenants in a similar manner. Defendants also lessened the enjoyment of the homes of the tenants in Cedar Hill Homes, which is predominantly African American, by cutting down the trees and installing video surveillance cameras, while not cutting down the trees or installing video surveillance cameras in nearby Cedar Hill Homes II, which is exclusively white.

Ga. Code Ann. § 8-3-202(a)(3)

63. By making statements indicating an intent to maintain segregated public housing, Defendants violated the Georgia Fair Housing Law, Ga. Code Ann. § 8-3-202(a)(3), in that they made statements indicating a preference, limitation, or discrimination based on race.

Ga. Code Ann. § 8-3-222

64. By engaging in harassing and retaliatory conduct in response to the attempt by certain class members to form a tenants' association and otherwise to protest the discriminatory conduct of Defendants, Defendants violated the Georgia Fair Housing Law, Ga. Code Ann. § 8-3-222, in that they intimidated, threatened, or interfered with the individual plaintiffs in the exercise or enjoyment of, on account of certain class members having exercised or enjoyed, or on account of certain class members aiding or encouraging others in the exercise or enjoyment of, rights granted or protected by the Georgia Fair Housing Law, Ga. Code Ann. § 8-3-202(a).

Art. 1, §1, Part V of the Constitution of the State of Georgia

65. By threatening and attempting to evict certain members of the Class, including the individual plaintiffs, assessing fines against them, refusing the tender of rent by them, and engaging in other harassing behavior against them, all under color of state law and in retaliation for their participation in and efforts to organize a tenants' association and otherwise protest Defendants' discriminatory housing policies and practices, Defendants have violated Art. 1, § 1, Part V of the Constitution of the State of Georgia, in that Defendants' acts were motivated by and in retaliation for and as punishment for the individual plaintiffs' exercise of rights guaranteed to them by the Constitution of the State of Georgia.

RELIEF REQUESTED

WHEREFORE, Plaintiffs respectfully pray that this Court grant the following relief:

1. Declare that the discriminatory housing practices and discriminatory retaliatory acts of the Defendants, as set forth above, violate the Fair Housing Act, as amended, 42 U.S.C. §§ 3601, *et seq.*; Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, and its implementing regulations at 24 C.F.R. § 1, *et seq.*; the Thirteenth and Fourteenth Amendments to the Constitution of the United States and 42 U.S.C. §§ 1982 and 1983; the Georgia Fair Housing Law, Ga. Code Ann. § 8-3-200, *et seq.*; and Article I, § 1, Part V of the Constitution of the State of Georgia.

2. Enjoin Defendants, their agents, employees, and successors, and all other persons in active concert or participation with any of them, from:

1. discriminating on the basis of race or color against any person in any aspect of the sale or rental of a dwelling; and
 2. failing or refusing to make all dwellings available for rental by Defendants in a non-discriminatory manner;
3. Order Defendants promptly to take effective action to disestablish the continuing segregation of the Blakely Housing Authority and the conditions, features, and effects of that segregation;
4. Award monetary damages incidental to injunctive and declaratory relief to each former and current tenant who is a member of the Class;
5. Award such damages as will fully compensate the Concerned Citizens Committee for its injuries caused by Defendants' discriminatory conduct;
6. Award such damages as will fully compensate Queen King, Sharon Johnson and Bonita Mays for their individual injuries caused by Defendants interference with their rights under Art. I, §1, Part V of the Constitution of the State of Georgia.
7. Award punitive damages against Defendant Cooper in his individual capacity;
8. Award Plaintiffs' reasonable attorneys' fees and costs; and
9. Grant such other additional relief as may be just and appropriate.

Respectfully submitted,

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