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DIVISION OF
ADMINISTRATIVE
HEARINGS

DETERMINATION

CASE NAME: Whipple, Janice v. Rental Management Company

CASE NUMBER: 04-01-0067-8

FCHR NUMBER: 21-90006H

013445

I. JURISDICTION

A complaint was filed with HUD on November 7, 2000 alleging that the complainant was injured by a discriminatory act. It is alleged that the respondent was responsible for: discriminatory terms, conditions, privileges, or services and facilities. It is alleged that the respondent's acts were based on race and color. The most recent act is alleged to have occurred on July 31, 2000. The property is located at: 3625 Carmel Ave., Port Orange, FL. The property in question is not exempt under the applicable statutes. If proven, the allegation would constitute a violation of Section 804b or f of Title VIII of the Civil Rights Act of 1968 as amended by the Fair Housing Act of 1988 and The Florida Fair Housing Act Chapter 760.23(2), F.S.

The respondent receives federal funding in the form of:

Tax Credit

II. COMPLAINANT'S ALLEGATIONS

I am African American and a qualified resident of my apartment complex. During July 2000, I moved into the complex with a lease that contained a different time frame than individuals who are White. Further, during my tenancy the management company has denied me amenities such as a microwave, and a commercially installed ceiling fan. I was initially denied the key code to the exercise room and I believe I am being discouraged from using the pool I believe the actions taken by the management company are due to my race, in violation to the Fair Housing Act, as amended.

III. RESPONDENT DEFENSES

On behalf of the owners and Management Company of the Club at Sugar Mill Apartments, we vehemently deny the baseless allegations. The owner or Management Company does not provide microwaves to any residents at the Club at Sugar Mill Apartments. The ceiling fan in Ms. Whipple's apartment was found to be defective and replaced under warranty by the construction company, Roger Kennedy Construction, who built the Club at Sugar

Mill Apts. Ms. Whipple was not denied the code to the fitness center but was personally given the code and instructed on its use by the community director, Christy Scheifele, during her first week of occupancy. We categorically deny that we discouraged Ms. Whipple or any resident the use of the swimming pool or any other amenity.

IV. FINDINGS AND CONCLUSION

Complainant has alleged discrimination based on Race (Black) & Color, by stating that the Rental Management Company gave her a different time frame on her lease than white tenants. Complainant additionally alleges that Management Company has denied her amenities and had denied her the proper maintenance. Respondent has refuted complainant's allegation, stating all tenants are given an 11-month lease, because they are new apartments. Respondent further refutes complainant's allegation by stating they have responded to all of complainant's requests.

Respondent has provided a copy of the rent roll. The rent roll includes the names, address, phone number, race and terms of lease for all residents residing in The Club at Sugar Mill Apartments (Tab D-2d).

All residents have 11-month leases. Complainant alleged that complex did not have many African-American residents until after she filed her complaint, however, per documentation provided by the respondent it shows 11 out the 18 African American families resided in the complex before complaint was filed (Tab D-2d).

There are 168 units at The Club at Sugar Mill Apartments. Out of the 168 Units, African-American families occupy 18 units, Caucasian families occupy 130 units, Hispanic families occupy 6 units, other races occupy 12 units and 3 units are vacant units. One Unit has two Hispanic residents and one black resident (Tab D-2d).

Respondent has provided 8 Service requests made by complainant (Tab D-2e).

- First request was on July 29, 2000, for glue on carpet by foyer. Service rendered August 3, 2001.
- Second request August 2, 2000, for washing machine backing Up. Service rendered August 8, 2000.
- Third request August 23, 2000, for ceiling fan not working properly. Fan Replaced by Carter Electric on August 31, 2000.
- Fourth request September 19, 2000, for trash in the common area. Service rendered September 20, 2000.
- Fifth request on November 3, 2000 for air conditioner vent in bathroom not working, Service Rendered November 7, 2000.
- Sixth request on December 1, 2000, for kitchen outlet by sink not working. Service rendered December 01, 2000.
- Seventh request December 11, 2000, for something in the kitchen needing to be fixed and bathroom shower needing to

be re-caulked. Respondent tried to render services on December 18, 2000, however, the complainant refused to let them in for a PM service order. Written on the repair order was a comment that the complainant was very rude and slammed door in their face.

- Eighth request December 23, 2000, for Agitator of Washing Machine causing problems. Service was rendered on December 26, 2000. For all requests made by the Complainant, services were rendered or were attempted to be rendered by Respondent.

Complainant alleged that she was not given the same amenities as all other residents:

- First, complainant stated she was denied the key code to the fitness room. Respondent has refuted this claim by stating that complainant was given code and instructed on its use by the Community Director, Christy Scheifele, during her first week there. Additionally, residents at the time of move in are given a resident handbook that explains all facilities at Sugar Mill.
- Second, she stated she was discouraged from using the pool. Again, respondent stated they do not discourage anyone from using the facilities.
- Third, complainant claimed her apartment was not given a microwave as stated in lease and paperwork she received. Complainant forwarded a copy of the paperwork she received which does mention a microwave. However, this was in paperwork with the heading titled "Stove, Oven and Microwave" that is given to all residents. It addresses how to properly clean the stove, oven and range (Tab D-1e). No residents are given a microwave.
- Fourth, complainant stated that management gave her a store bought fan as opposed to a commercially installed fan. Complainant stated that she does not have contact with her neighbors, but she knows the neighbors have commercially installed fans because she can see them through their windows. Management has replaced the fan.

Complainant stated that she is not treated in the same manner as other tenants:

- Complainant stated that management came into her apartment without notifying her. Per her rental agreement the #31(c)(f) owner or owner's agents and employees or contractors, may enter the Premises as follows: c - To make necessary repairs, decorations, alterations or improvements and f - To conduct bimonthly management inspections.
- Complainant stated that they put in her water meter upside down on purpose. However, respondent stated this was done unintentionally before complainant took possession of the

unit.

- Complainant states they charge her more than the legal city water rate and failed to read, or lied about how they read the water meter. However, this is not done by management, this is controlled by the city.
- Complainant stated that management purposely gave her a wrong number to the water department. Management gives all residents a list of numbers as a courtesy any errors were unintentional (Tab D-1f).
- Complainant stated she was not given notification of an apartment meeting, and that they did not give her a notice because they were talking about her in the meeting. She states they told everyone in the meeting that she had AIDS. Furthermore, complainant stated she complained to them about not being notified and now they call her. Respondent refuted complainant's statement by stating The Club at Sugar Mill has held a number of events and meetings of social, recreational and educational nature. All residents are informed of these meeting through monthly newsletters, flyers and notification on community bulletin boards.
- Complainant stated that she was not charged the same security deposit as other tenants. She provided copies of checks she gave to management for deposits (Tab D-1H). However, through a review of Sugar Mills Rate Sheet (Tab D-1g), they charged her less than the required security deposit.
- Complainant stated that she was not approved to reside in her apartment until after she contacted the Fair Housing Hotline. However, she was initially rejected because of a bankruptcy that caused her not to meet the credit standard. After she re-contacted management, she was told if she provided information she was a good tenant from her previous landlord, then they'd approve her. Complainant provided pictures of her previous residence to management (Tab D-1j).

Complainant had stated that she had a disability and requested the complaint be amended to include disability as a basis. The investigator requested that the complainant send her a doctor statement identifying that she has a disability that is covered under the Fair Housing Act and that it substantially limits one or more of her major life functions. Complainant provided us with a copy of her social security paperwork; however, on many occasions she was counseled that it was not sufficient. She has refused to give us a statement from her doctor or to sign a medical release form.

Complainant failed to cooperate with numerous document requests made by investigator.

Based on the evidence provided, it is recommended that a No Cause

Determination be issued on the basis of race, black, and color
and the issues of Terms and Conditions.