

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA**

LOUISIANA FAIR HOUSING ACTION	)	
CENTER, INC.	)	
	)	
	)	
Plaintiffs,	)	
	)	
v.	)	CIVIL ACTION NO.
	)	
TALL PINES SLIDELL, LLC , AND CAREY	)	
RIZZUTO,	)	JURY DEMANDED
	)	
Defendants.	)	

**COMPLAINT**

**PRELIMINARY STATEMENT**

1. This matter arises pursuant to the Fair Housing Act (“FHA”) of 1968, as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C. § 3601 *et seq.* Plaintiff Louisiana Fair Housing Action Center, Inc. (“LaFHAC”), is a nonprofit entity with a mission to eradicate housing discrimination in Louisiana. Defendants are the corporate owner and property manager of a large, multi-building apartment complex located in Slidell, Louisiana. LaFHAC undertook a testing investigation of Defendants’ rental practices, which substantiated that Defendants engaged in a pattern of discriminating against African Americans and made discriminatory comments towards families with children. Defendants misrepresented the availability of apartments and refused to negotiate with prospective African American tenants on the basis of their race. Defendants further declared their practice of segregating families with children into one specific area of the complex. Plaintiff seeks declaratory, injunctive, and equitable relief, compensatory and punitive damages, and attorneys’ fees and costs to redress Defendants’ unlawful discriminatory practices.

## **JURISDICTION AND VENUE**

2. This Court has subject matter jurisdiction over Plaintiff's claims arising under federal law pursuant to 28 U.S.C. §§ 1331 and 1343 and 42 U.S.C. §§ 3613. This Court has supplemental jurisdiction over Plaintiff's claims arising under state law pursuant to 28 U.S.C. § 1367.

3. Declaratory and injunctive relief is sought pursuant to 42 U.S.C. §§ 3613(c)(1), as well as Rules 57 and 65 of the Federal Rules of Civil Procedure.

4. Venue is proper in the United States District Court for the Eastern District of Louisiana under U.S.C. § 1391(b) because the events or omissions giving rise to the Plaintiff's claim occurred there, and the property that is the subject of this suit is located there.

## **PARTIES**

1. Plaintiff LOUISIANA FAIR HOUSING ACTION CENTER, INC. is a private, non-profit fair housing advocacy organization with a mission to eradicate housing discrimination in Louisiana.

2. LaFHAC seeks to promote equal housing opportunities in all housing transactions, including rentals. The organization advances its mission through a variety of activities, such as education, outreach, counseling, investigation, advocacy, and enforcement.

3. LaFHAC engages in testing and other investigations of housing discrimination. It employs "testers," who pose as prospective residents, renters and homebuyers, to obtain information about the conduct of housing providers for the purposes of determining if housing discrimination is taking place. Testing as an investigative tool has long been utilized by the United States Department of Justice and fair housing organizations as an essential means to detect and confirm discriminatory practices that may go otherwise undetected.

4. LaFHAC is an “aggrieved person” as defined by the Fair Housing Act and brings this Action on its own behalf.

5. At all times relevant to the complaint, Defendant TALL PINES SLIDELL, LLC owned the property located at 645 Kostmayer Avenue, Slidell, Louisiana (“the Property”).

6. The Property and the apartments within them are dwellings within the meaning of the Fair Housing Act, 42 U.S.C. § 3602(h).

7. Upon information and belief, at all times relevant to the complaint, Defendant CAREY RIZZUTO was employed as a manager and rental agent for Tall Pines Slidell, LLC and the Property. At all times relevant to this complaint, Rizzuto was and held himself out as a rental agent of the Property with the discretion to field rental inquiries, show apartments, and select renters.

5. At all times relevant to the complaint, Defendants had knowledge that discriminating in leasing on the basis of race violates federal fair housing laws.

6. At all times relevant to the complaint, Defendants had knowledge that restricting or steering families with children to specific floors, buildings or areas violates federal fair housing laws.

### **FACTUAL ALLEGATIONS**

7. Testing is a simulated housing transaction that evaluates a housing provider’s treatment of individuals to determine if the provider is discriminating in violation of the FHA. LaFHAC periodically audits the rental housing market to ensure that discriminatory practices are not occurring in the community. These investigations involve the testing of a sample of housing providers within a short period of time (as determined by the availability of testers and number of properties advertising units for rent).

8. In January 2019, LaFHAC tested Defendants' Property in the course of an audit. In the course of the audit testing, Defendant Rizzuto provided different information to the African American tester and white tester regarding when a unit would be available for rent.

9. In the course of the initial testing, Rizzuto also stated to a tester that "I don't have any kids here. This is mostly adults. I don't like kids. Grandkids visit but it's mostly adults so kids won't disrupt the elderly tenants or people who don't want to be."

10. Based on the differential treatment shown in the audit test between the African American and white testers, and based on the comments regarding children, LaFHAC decided to undertake further testing. LaFHAC diverted its resources from other planned activities to initiate a focused testing investigation of the Property to confirm Defendants' discriminatory rental practices.

#### **Testing of February 11-12, 2019**

11. In February 2019, a "for lease" sign was prominently displayed at the property located at 645 Kostmayer Avenue.

12. On February 11, 2019, white tester "Elizabeth" called and spoke with Defendant Rizzuto regarding available apartments at 645 Kostmayer Avenue. Elizabeth posed as a prospective renter interested in the rental.

13. Rizzuto was aware that Elizabeth was white.

14. Rizzuto told Elizabeth that there were multiple apartments available.

15. When Elizabeth asked if she could be shown the apartments, Rizzuto responded that the units were available to be shown and arranged to meet Elizabeth at the property on the following day, February 12, at 1 p.m.

16. On February 12, fifteen minutes before Rizzuto was to meet white tester Elizabeth to show available apartments, African American tester “Tanshenetta” called and spoke with Defendant Rizzuto regarding available apartments at 645 Kostmayer Avenue. Tanshenetta posed as a prospective renter interested in the rental.

17. Rizzuto was aware that Tanshenetta was African American.

18. Rizzuto told Tanshenetta that “there [was] nothing available until the end of March.”

19. When Tanshenetta asked if there was a unit or model unit she could be shown, Rizzuto replied, “not at this moment.” The call then concluded.

20. Minutes after speaking with African American tester Tanshenetta, Rizzuto met with white tester Elizabeth and showed her four available apartments at the property. At the end of the tour of the apartments, Rizzuto told white tester Elizabeth, “that’s what I have. Just depends on what you want.” He also stated to white tester Elizabeth, “just tell me which one you prefer and I’ll get it ready for you.”

#### **Testing of February 26-27, 2019**

21. A “for lease” sign continued to be displayed at 645 Kostmayer Avenue through February 2019.

22. On the morning of February 26, 2019, white tester “John” called Defendant Rizzuto regarding available apartments at 645 Kostmayer Avenue.

23. Rizzuto was aware that John was white.

24. Rizzuto confirmed that apartments were available and invited white tester John to visit the property the next day to view the apartment.

25. About ninety minutes after John's call with Rizzuto, African American tester "Eric" called Rizzuto regarding available apartments at 645 Kostmayer Avenue.

26. Rizzuto was aware that Eric was African American.

27. Rizzuto told Eric that there were apartments available and that he could come and pick up an application.

28. Eric asked if he could view the apartments later that day, and Rizzuto told Eric to call later to see if Rizzuto was still in the area.

29. A few hours later, African American tester Eric called Rizzuto. Rizzuto did not answer the call, and Eric left a voicemail with his name and number and expressing his interest in touring an apartment.

30. Rizzuto soon responded by text message, saying "sorry, can't talk now." Eric immediately responded by text message, "Can I come see the unit?"

31. Rizzuto did not respond to the message.

32. The following morning, on February 27, African American tester Eric again texted Rizzuto. Eric mentioned his name and phone number, and asked again if he could see an apartment.

33. Rizzuto did not respond and did not contact Eric again.

34. On that same day, February 27, Rizzuto met white tester John at 645 Kostmayer as previously arranged and showed him five apartments. In the course of showing the apartments, John asked, "so there are four units available?" and Rizzuto responded, "I got more than four."

#### **Familial Status Comments**

35. In an initial January 2019 audit testing of the property, Defendant Rizzuto told a tester that she was being shown units "in the mostly adult section [of the complex]." Regarding

the same section of the complex, Rizzuto told another tester that “this is mostly adults. I don’t like kids.” He also said, “I love when people don’t have kids.”

36. On February 12, 2019, Rizzuto told white tester Elizabeth that he “[tries] to separate people with kids and without. I put people with kids in units 101-111.” Rizzuto told white tester Elizabeth that he put tenants with children in those units “so they can irritate each other.”

### **Injury to LaFHAC**

37. LaFHAC’s efforts in furtherance of its mission have been directly harmed by Defendants’ discrimination against individuals on the basis of race and familial status.

38. After the initial testing that occurred within an audit investigation of the area rental market, the focused investigation of the Property to identify and confirm the Defendants’ discriminatory rental practices involved the commitment of time and resources.

39. Among other investigative actions, LaFHAC’s Coordinator of Investigations and auxiliary staff created the testers’ rental profiles, coordinated the tests, and analyzed and summarized the numerous calls and site visits. LaFHAC further expended funds to compensate the testers for the specific tests they undertook at the Property.

40. In order to undertake the testing investigation, LaFHAC diverted its investigative resources from other investigative projects and activities in furtherance of its mission. The diversion of resources occasioned by the Defendants’ discriminatory conduct impaired or impeded these projects and activities.

41. LaFHAC also dedicated resources to counteracting the effects of Defendants’ discrimination in the community. Such resource expenditure included LaFHAC’s dedication of

staff time and organizational funds to engage in education and outreach activities narrowly targeted to counteract the Defendants' specific discriminatory practices.

42. The education and outreach activities undertaken to counter the specific discriminatory practices undertaken by Defendants included the creation and geographically targeted distribution of materials addressing race and familial status discrimination, social media and website posts addressing race and familial discrimination, working with community partners to best reach the communities affected by the discrimination, and participation in community events in the affected community to provide education regarding fair housing rights.

43. As a result of these counteraction efforts, which are ongoing and made specifically in response to Defendants' conduct as alleged herein, LaFHAC has diverted its resources away from other planned projects and activities in furtherance of its mission. Those planned projects and activities included LaFHAC's annual fair housing conference, recruitment of sponsors for LaFHAC community events, fair housing training events for landlords, and other projects and activities. The diversion of resources occasioned by the Defendants' discriminatory conduct impaired or impeded these projects and activities.

## **CLAIMS**

### **COUNT I**

#### **Fair Housing Act, 42 U.S.C. § 3604**

(All Defendants)

44. Plaintiff realleges and incorporates herein by reference the allegations set forth above.

45. By the conduct set forth above, Defendants



- a. discriminated in the rental of dwelling, refused to negotiate for the rental of, or otherwise made a dwelling unavailable because of race, in violation of 42 U.S.C. § 3604(a) and 24 C.F.R. §§ 100.60 and 100.70.
- b. made or caused to be made a statement with respect to the sale or rental of a dwelling that indicates a preference, limitation, or discrimination based on familial status in violation of 42 U.S.C. § 3604(c) and 24 C.F.R. § 100.75; and
- c. represented to a person because of race that a dwelling was not available for inspection, sale, or rental when such dwelling was in fact so available, because of race in violation of 42 U.S.C. § 3604(d) and 24 C.F.R. § 100.80.

46. With respect to the conduct alleged above, Defendant Rizzuto acted with willful disregard, malice, or reckless indifference that his actions violated the Fair Housing Act.

47. Plaintiff is an aggrieved person within the meaning of 42 U.S.C. § 3602(i), has been injured by the Defendants' discriminatory conduct, and has suffered damages, including diversion of resources and frustration of mission, as a result.

48. Accordingly, Plaintiff is entitled to actual damages, punitive damages, injunctive relief, and reasonable attorneys' fees and costs pursuant to the FHA, 42 U.S.C. § 3613(c).

## **COUNT II**

### **NEGLIGENT SUPERVISION AND TRAINING UNDER LOUISIANA LAW**

(Defendant Tall Pines Slidell, LLC)

49. Under Louisiana law, Defendant Tall Pines Slidell, LLC had a duty to avoid causing injury and harm through negligent supervision and training of its agents and employees.

50. Under Louisiana law, Defendant Tall Pines Slidell, LLC was negligent in the supervision and training of its employee/agent Defendant Rizzuto insofar as the supervision and

training lapses provided Rizzuto with an opportunity to violate federal anti-discrimination laws. These lapses were the proximate cause of foreseeable injury to Plaintiff.

51. Upon information and belief, Defendant Tall Pines Slidell, LLC provided Rizzuto with no training or inadequate training related to the obligations not to discriminate in violation of applicable civil rights laws.

52. By and through the actions of its employees/agent Rizzuto, Defendant Tall Pines Slidell, LLC breached its duty to LaFHAC.

53. But for the actions of Defendant Tall Pines Slidell, LLC and its employee/agent Rizzuto, LaFHAC would not have suffered the injuries and damages that are at issue in this Complaint.

### **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff prays that the Court award the following relief:

A. Enter a declaratory judgment that the discriminatory conduct of Defendants set forth above violated the Fair Housing Act;

B. Enter an injunction against Defendants, their agents, employees, successors, and all other persons in active concert or participation with them that:

a. enjoins them from discriminating on the basis of race in violation of the Fair Housing Act;

b. requires them to take affirmative steps to prevent the recurrence of discriminatory conduct in the future, including training, implementation of non-discrimination policies and procedures, reporting requirements, and any other steps that may be necessary;

C. Award Plaintiff compensatory damages;

D. Award Plaintiff punitive damages that would punish Defendants for the willful, malicious, wanton, and reckless conduct alleged herein and that would effectively deter similar conduct in the future;

E. Award Plaintiff its reasonable attorneys' fees and costs incurred in this action; and

F. Award any additional relief that is just and proper.

Dated: February 11, 2021

Respectfully Submitted,

*/s/ Peter Theis*

Peter Franklin Theis (La. Bar No. 34786)  
LOUISIANA FAIR HOUSING  
ACTION CENTER, INC.  
1340 Poydras Street, Suite 710  
New Orleans, LA 70112  
Tel: (504) 208-5070  
Fax: (504) 434-4365  
Email: ptheis@lafairhousing.org

*/s/ Cashauna Hill*

Cashauna Hill (La. Bar No. 34385)  
LOUISIANA FAIR HOUSING  
ACTION CENTER, INC.  
1340 Poydras Street, Suite 710  
New Orleans, LA 70112  
Tel: (504) 708-5671  
Email: chill@lafairhousing.org

*Counsel for Plaintiff*