VILLAGE OF KAUFMAN, TEXAS

Village of Kaufman is a 68 unit Section 8 Loan Management property located in Kaufman, Texas. The property is owned and managed by AIMCO through various subsidiaries. The residents pay their own electric and gas utilities. The utility allowances (UA) had not been adjusted since at least 1999 and probably earlier. Sandy Rollins, Texas Tenants Union has been working with the residents on and off for a number of years. In 2008 the resident association asked HUD and the owner to increase the UAs. In 2008 the owner requested an increase in the UA but HUD refused. HUD told the residents they didn't have sufficient funding to approve the requested increases though in the current litigation HUD maintains the increase was denied because the owner didn't provide sufficient utility bill samples. In 2009 Housing Preservation Project (HPP) on behalf of the residents sent a demand request for increases in the UA in August 2009. Very shortly thereafter HUD responded that increases in the UA had been approved effective July 1 to be implemented in September. The approved increases were huge:

1 BR: from $33 to $75 (127%)

2BR: from $47 to $155 (230%)

3 BR: from $53 to $161. (204%)

In the demand letter and after the increases were approved HPP requested a meeting with HUD and AIMCO to discuss compensation for the years in which the UAs were not adjusted but both refused. HPP and Sandy Rollins also made several FOIA requests of HUD for all the UA and rent increase related documents from HUD. To date, very few documents have been produced for 2007-2009 and none before that time. So, as a last resort, in November HPP on behalf of the residents brought a class action lawsuit

against HUD and AIMCO for compensation for the pervious years of unadjusted UAs. The claims against HUD are under the APA for the refusal to grant the requested UA increase in 2008. A number of claims are maintained against AIMCO, including violation of federal law and regulation, breach of contract (lease), fraud, fraud by non disclosure and deceptive trade practices under state law.

Instead of answering HUD filed a motion to dismiss alleging lack of subject matter jurisdiction based on standing – failure to show that the injuries are traceable to HUD. We responded that the motion is really based on the merits of the claims and not jurisdictional, therefore not timely and requiring a hearing on the merit of the claims.

HPP has been engaged in some preliminary discussions with AIMCO's in house counsel about settling but so far these have not advanced. In the meantime, AIMCO has hired Locke Lord as local counsel in Dallas. Their answer is due February 19, 2010.

As a side note, in the spring, Sandy Rollins attempted to have a meeting of the residents' association on site and were met with strong resistance from the resident manager. The manager told all the tenants that they could not meet in the community room and would not allow Sandy and local counsel on the property, going so far as to call the local police to prevent them from entering the property. Prior to the meeting Sandy had contacted HUD and AIMCO officials to complain about these actions with no response. HPP attorneys then wrote demand letters to HUD and AIMCO citing the tenant organizing law and regulations. Of course, both parties responded expressing great surprise that the resident manager had engaged in such conduct and HUD reiterated its commitment to tenant organizing – several weeks after the fact.

February 22, 2010