

Eighth Circuit Affirms Residents' Victory in Missouri Demolition Case

On August 18, the United States Court of Appeals for the Eighth Circuit handed down a victory for civil rights and affordable housing in *Charleston Housing Authority v. USDA*, 419 F.3d 729 (8th Cir. 2005). The case involved a challenge by residents and Housing Comes First, a Missouri fair housing organization,¹ to the Charleston (Missouri) Housing Authority's plan to vacate and demolish Charleston Apartments, a fifty-unit housing complex financed under the Department of Agriculture (USDA) Section 515 affordable rural rental housing program. This litigation was described in a previous issue of the *Housing Law Bulletin*.²

Plaintiffs asserted claims based on the housing authority's violations of the Fair Housing Act,³ the Emergency Low Income Housing Preservation Act (ELIHPA),⁴ and other provisions of federal law.⁵ In 2004, after a bench trial, the United States District Court for the Eastern District of Missouri issued judgment in Plaintiffs' favor on their fair housing claims, but rejected Plaintiffs' other claims.⁶

The district court also issued judgment in a related case brought by the housing authority against the USDA. The housing authority contended that the refusal of USDA to accept prepayment of its Section 515 loan was unlawful. The district court rejected the housing authority's claims.

Demolition Plan Unlawful Based on Disparate Racial Impact

In a first-of-its-kind appellate ruling, the Eighth Circuit concluded that the district court did not err in finding that the housing authority's plan to vacate and demolish Charleston Apartments had a disparate impact on minorities in violation of the Fair Housing Act.⁷ At trial,

plaintiffs presented evidence that nearly all of the residents of the Section 515 development were African American, as were a majority of the households on the Charleston Apartments waiting list and a disproportionate number of households with unmet housing needs in Mississippi County, Missouri.

ELIHPA Upheld

The Eighth Circuit also affirmed the district court's decision regarding the housing authority's prepayment claims against USDA.⁸ In so doing, the Eighth Circuit followed its prior decision in *Parkridge Investors, L.P. v. Farmers Home Admin.*, 13 F.3d 1192, 1195 (8th Cir.1994), and upheld the validity of ELIHPA. In upholding ELIHPA, the decision stakes out a clear, contrary position to those suggested in recent decisions by other federal courts in Oregon and Idaho.⁹

Remand for Further Proceedings Regarding Relief

Citing the passage of time, the Eighth Circuit remanded the case to the district court for further proceedings regarding injunctive remedies.¹⁰ Plaintiffs had sought a court order requiring the housing authority to rent-up and maintain all vacant units in the Charleston Apartments complex.

Conclusion

Charleston Housing Authority has broken federal law and violated the civil rights of African-American families. The question now is what injunctive relief the district court will order on remand.

Despite residents' repeated objections, Charleston Housing Authority has allowed Charleston Apartments to sit largely vacant and neglected for years while this litigation has proceeded. The district court has shown some reluctance to issue a specific injunctive order in the past.¹¹

Plaintiffs in the case are represented by Ann Lever and Dan Claggett of Legal Services of Eastern Missouri and Lew Polivick of Legal Services of Southern Missouri, with the additional participation of the National Housing Law Project. Plaintiffs retained as their demographics expert Professor Andrew Beveridge of the City University of New York. ■

¹Residents and Housing Comes First will be referred to below as "Plaintiffs."

²NHLP, *District Court Rules Demolition of RHS Development Violates Fair Housing Act*, 34 HOUS. L. BULL. 59, 72 (2004).

³42 U.S.C.A. § 3604(a) (West 2003).

⁴42 U.S.C.A. § 1472 (West 2003) (restricting the ability of project owners to prepay loans insured under the Section 515 program).

⁵See NHLP, *District Court Rules Demolition of RHS Development Violates Fair Housing Act*, 34 HOUS. L. BULL. 59, 72 (2004) (describing other claims).

⁶Owens v. Charleston Hous. Auth., 336 F. Supp. 2d 934 (E.D. Mo. 2004) (Perry, J.).

⁷Charleston Hous. Auth. v. USDA, 419 F.3d 729, 742 (8th Cir. 2005) (Murphy, Bright, Melloy, J.).

⁸*Id.* at 738-40.

⁹See, e.g., *Kimberly Assocs. v. United States*, 261 F.3d 864 (9th Cir. 2001); *Goldammer v. Veneman*, 2005 WL 1307698 (D. Or. 2005).

¹⁰Charleston Hous. Auth., 419 F.3d at 742-3.

¹¹NHLP, *District Court Rules Demolition of RHS Development Violates Fair Housing Act*, 34 HOUS. L. BULL. 59, 73 (2004).