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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JULIA MANNARINO and RON TESKA,

Plaintiffs

vs.

UNITED STATES DEPARTMENT OF
HOUSING AND URBAN DEVELOPMENT
and KIM KENDRICK, ASSISTANT
SECRETARY FOR FAIR HOUSING AND
EQUAL OPPORTUNITY,

Defendants

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Civil Action No. 08.0988

FILED

JUL 14 2008

CLERK U. S. DISTRICT COURT
WEST. DIST. OF PENNSYLVANIA

COMPLAINT

And now come the Plaintiffs, Julia Mannarino and Ron Teska, on a pro se basis and respectfully file this complaint/petition requesting judicial review of final agency action.

1. The plaintiffs, husband and wife, reside at 397 Hewitt Run Road (previously known as R.D. #1 Box 173), Wind Ridge, Greene County, Pennsylvania 15380 and are citizens of the United States.
2. The defendant, United States Department of Housing and Urban Development is an agency of the federal government with its main headquarters at 451 Seventh Street SW, Washington D.C., 20410. The defendant, Kim Kendrick is the Assistant Secretary for Fair Housing and Equal Opportunity and is the HUD official responsible for the agency action. She is sued in her official capacity.

JURISDICTION

3. This court has jurisdiction over this matter pursuant to 5 U.S.C. Section 701.

FACTS

4. Plaintiffs, who had operated a partnership business in Greene County known as Southwestern Community Ventures, were denied several contract opportunities arising in connection with expenditures of federal funds to which, as a legitimate Section 3 business concern, they were entitled.

5. In early 1997, plaintiffs filed a Section 3 complaint with HUD against Dunkard Township, a recipient of federal funds, regarding one of the above mentioned contract awards, as per 24 CFR Part 135 (Exhibit A). As requested by HUD, this complaint was refilled in July 1997.
6. After almost 10 long years, HUD finally completed their investigation of the complaint and in December of 2006, issued a determination finding a valid allegation of non-compliance by Dunkard Township with the Section 3 regulations (Exhibit B).
7. The steps of the grievance procedure, as outlined in the regulations, were very slowly followed and the Assistant Secretary attempted an informal resolution in May 2007 (Exhibit C) to which plaintiffs sent a response (Exhibit D).
8. Because very little, if any, negotiating between the parties actually occurred, these informal "attempts" failed and in January 2008, the Assistant Secretary imposed a resolution (Exhibit E).
9. This resolution was appealed by the plaintiffs (Exhibit F) and correspondence regarding this appeal was sent by HUD (Exhibit G) to which plaintiffs sent a response (Exhibit H).
10. The appeal was subsequently denied by HUD (Exhibit I) and plaintiffs send a response to this action (Exhibit J). All administrative remedies have been exhausted.
11. According to the grievance procedure, the imposed resolution "...will be in accordance with requirements and procedures...as set forth in the regulations governing the HUD program...". These regulations are found at 24 CFR 570.910.
12. The regulations noted above specify that actions "...SHALL (emphasis added) be designed to ...mitigate, to the extent possible, the adverse effects or consequences of the deficiency...". These regulations provide guidelines for HUD to follow in exercising its enforcement powers and set the standards by which courts can assess whether their responsibilities were met.
13. HUD's imposed resolution, which includes opportunities for future contracts but does not include any direct monetary compensation to plaintiffs, does nothing to mitigate the consequences of the deficiency as our business no longer exists. HUD staff was very aware of this fact. No other types of relief were ever suggested/recommended by HUD at any time during the resolution process.
14. Plaintiffs' business's failure is related to the inexcusably large amount of time HUD has taken to go through their grievance process. Over the years, due to HUD's

inaction on this and other filed complaints, plaintiffs' business lost credibility and even suffered the retaliation of a contract cancellation by the state agency involved. At this point in time, it is impossible to re-create plaintiffs' business. HUD's recommended mitigation actions are akin to a factory offering a person blinded in an industrial accident free eyeglasses. It is not a "just" resolution and does not mitigate, to any extent, the adverse effects of the deficiency and as such is not consistent with the implementing regulations.

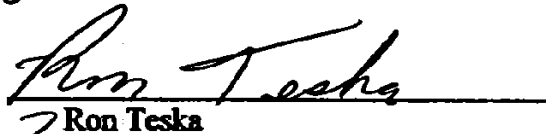
15. Although HUD officials insist relief such as monetary compensation is not authorized, this is not true. In fact, it is a type of relief mentioned in a handbook for HUD staff regarding implementation of Section 3 and is specifically included in formal (imposed) resolutions of grievances (Exhibit K).
16. HUD's refusal to include direct monetary compensation from the recipient to the plaintiffs, to replace their lost income, is arbitrary and not in accordance with the law. The applicable statutes do not preclude judicial review which is needed to review the treatment of plaintiffs and safeguard their interests.

RELIEF REQUESTED

17. WHEREFORE, plaintiffs respectfully request that this Court enter a judgment that enjoins defendant HUD to include direct monetary compensation to plaintiffs, from recipient Dunkard Township as a result of their noted non-compliance, in the amount of \$16,500, to mitigate the lost income to which plaintiffs were entitled plus all court costs and to grant such further and additional relief as may be just and proper.

Plaintiffs declare under penalty of perjury that all facts given above are correct and true.


Julia Mannarino


Ron Teska

397 Hewitt Run Road
Wind Ridge, PA 15380
724/428-5354

CERTIFICATE OF SERVICE

We hereby certify that a copy of the Summons and Complaint was served this

14th day of July 2008 via U.S. Mail, certified, postage pre-paid to

the following:

**Ms. Kim Kendrick
Assistant Secretary for Fair Housing and Equal Opportunity
U. S. Department of Housing and Urban Development
451 Seventh Street SW
Washington, D.C. 20410**

**Office of Attorney General
U.S. Department of Justice
10th and Constitution NW
Washington, D.C. 20530**

And hand delivered on the same date noted above to:

**Civil Process Clerk
U.S. Attorneys Office
700 Grant Street Suite 400
Pittsburgh, PA 15219**



Julia Mannarino



Ron Teska

LIST OF EXHIBITS

- Exhibit A – Plaintiffs’ Section 3 Complaint Dated January 28, 1997**
- Exhibit B – HUD’s Determination Letter Dated December 15, 2006**
- Exhibit C – HUD’s Voluntary Compliance Agreement Dated May 21, 2007**
- Exhibit D – Plaintiffs’ Response to VCA Dated May 30, 2007**
- Exhibit E – HUD’s Imposed Resolution Dated January 4, 2008**
- Exhibit F – Plaintiffs’ Appeal of Resolution Dated January 14, 2008**
- Exhibit G – HUD’s Response to Appeal Dated March 3, 2008**
- Exhibit H – Plaintiffs’ Correspondence to HUD Dated March 24, 2008**
- Exhibit I – HUD’s Denial of Appeal Dated June 16, 2008**
- Exhibit J – Plaintiffs’ Correspondence to HUD Dated June 20, 2008**
- Exhibit K – HUD Handbook**