

HOUSING DISCRIMINATION COMPLAINT

CASE NUMBER: (Title VIII)

1. Complainants

Brevard Neighborhood Development Coalition
1151 Masterson St.
Melbourne, FL 32935

Greater Heights, LLC
1151 Masterson Street
Melbourne, FL 32935

Fair Housing Continuum
4760 N. Hwy. US 1, Ste. 203
Melbourne, FL 32935

Representing Complainants:

Stephen Dane
Timothy Smyth
Jean Zachariasiewicz
Relman, Dane & Colfax, PLLC
1225 19th St., N.W., Ste. 600
Washington, DC 20036
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tsmyth@relmanlaw.com
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2. Other Aggrieved Persons

Landlords, presently unknown to Complainants, who have been denied commercial property insurance covering dwellings based on the presence at their multifamily properties of tenants using Section 8 vouchers, and/or landlords who have been forced to limit the number of Section 8 units at their multifamily properties in order to maintain commercial property insurance covering dwellings. In addition, the Respondents' underwriting policies have a discriminatory impact on Black and/or African-American persons and persons with disabilities who use Section 8 vouchers and are unable to find appropriate housing, due to landlords being forced to choose between accepting Section 8 vouchers and maintaining commercial

property insurance covering dwellings.

3. The following is alleged to have occurred or is about to occur:

Discrimination in the availability, terms, or conditions of commercial property insurance covering dwellings because of race and disability by refusing to insure multifamily properties with tenants who use Section 8 vouchers to help pay their rent.

4. The alleged violation occurred because of:

Race and/or disability.

5. Address and location of the property in question (or if no property is involved, the city and state where the discrimination occurred):

Greater Heights Apartment Community
1150 Masterson St.
Melbourne, FL 32935

6. Respondents

Lloyd's of London
One Lime Street
London
EC3M 7HA
UK

Lloyd's America Inc.
The Museum Office Building
25 W. 53rd St., 14th Fl.
New York, NY 10019

Lloyd's America Inc.
6340 Sugarloaf Parkway, Ste. 200
Duluth, GA 30097

International Catastrophe Insurance Managers, LLC
3665 Discovery Dr., Third Fl.
Boulder, CO 80303

7. The following is a statement of the facts regarding the alleged violation:

- a. The Brevard Neighborhood Development Coalition (“BNDC”) is a faith-based non-profit community development organization incorporated in the state of Florida, with its principal place of business in Melbourne, Florida. BNDC was incorporated in 1998 to plan, facilitate, and implement solutions for the revitalization of impoverished communities. It has focused its attention on the Booker T. Washington neighborhood in north Melbourne, Florida, the City’s densest area of poverty.
- b. Greater Heights, LLC, is a wholly owned subsidiary of BNDC, with its principal place of business in Melbourne, Florida. Greater Heights, LLC owns the Greater Heights Apartments, *see infra* at paragraph 7.g.
- c. The Fair Housing Continuum (“FHC”) is a private non-profit fair housing agency incorporated in the state of Florida, with its principal place of business in Melbourne, Florida. FHC is dedicated entirely to the elimination of housing discrimination in Florida. Its activities include providing training to comply with the requirements of federal fair housing programs, assessing business practices to ensure compliance with federal, state, and local fair housing laws, analyzing and developing strategies to overcome fair housing impediments, processing and assisting in fair housing complaint resolution, and enforcing fair housing laws.
- d. Lloyd’s of London (“Lloyd’s”) is a specialist insurance market and corporation. It has been in existence since 1688, and operates around the world and throughout the United States. Underwriters at Lloyd’s are approved surplus lines insurers in all United States jurisdictions, and it is the number one surplus lines insurer in the United States. United States business accounts for almost 40% of Lloyd’s global annual premium, and property insurance makes up 33% of Lloyd’s business in the United States. Lloyd’s principal United States office is located in New York, NY, with regional offices throughout the country and in the U.S. Virgin Islands.
- e. International Catastrophe Insurance Managers, LLC (“ICAT”) is a leading provider of property insurance to businesses and residential property owners located in hurricane and earthquake exposed regions of the United States. It is an underwriter at Lloyd’s of London (ICAT Syndicate 4242), and it underwrites on behalf of other insurance companies. ICAT’s main United States office is located in Boulder, CO, and it offers insurance products throughout the United States.

- f. BNDC manages Greater Heights Apartments (“Greater Heights”), a low-income apartment community in the Booker T. Washington neighborhood. Greater Heights comprises 8 buildings with a total of eighteen units. Seventeen of the units are income-restricted, using income standards determined by the U.S. Department of Housing and Urban Development. At least four of the units must be occupied by tenants who are extremely low income (up to 30% of area median income (“AMI”)); at least six of the units must be occupied by tenants who are very low income (up to 50% of AMI); one unit is non-income eligible; and the remaining units must be occupied by tenants who are low income (up to 80% of AMI). BNDC financed the development of Greater Heights with a combination of donations and community loans. BNDC has forgivable mortgages from Brevard County and the City of Melbourne, which financing is contingent upon BNDC renting to tenants who meet the above-described income limits.
- g. BNDC currently rents to seventeen households. At the time of the events in question, three of the units at Greater Heights were rented by tenants using Section 8 vouchers. Today, two of the units are rented by tenants using Section 8 vouchers.¹ Both are African-American households, and one of the voucher-holders is a person with a disability. BNDC has accepted Section 8 vouchers since it opened Greater Heights, and would be willing to rent to more than two Section 8 households at one time, as it would help BNDC to fulfill its mission of providing housing to low-income tenants.
- h. BNDC maintains property and liability coverage for Greater Heights. Maintaining such insurance is a business necessity, as well as a condition of BNDC’s mortgage agreement with the Florida Community Loan Fund, Inc. Since approximately 2009, BNDC has worked with an insurance agent to locate appropriate policies.
- i. On or about May 19, 2013, BNDC obtained an insurance policy underwritten by Lloyd’s that covered both commercial property insurance for dwellings and wind insurance. The Declarations Page lists the producer as Bass Underwriters at 1290 Highway A1A, Suite 102, Satellite Beach, Florida 32937. The Lloyd’s authorized agent listed on the policy is International Catastrophe Insurance Managers, LLC. BNDC paid the premium amount of \$9,174.82 with a check

¹ Under the Section 8 Existing Housing Program (“Section 8 voucher program”), *see* 42 U.S.C. §§ 1437f and 1437(o), the United States Department of Housing and Urban Development (“HUD”) enters into annual contracts with local housing authorities to fund Section 8 vouchers. Housing assistance is then provided to a family or individual, and the participants are able to find their own housing in the private market. Participants are not limited to units located in subsidized housing projects. With Section 8 assistance, renters pay between 30% and 40% of their incomes for rent, and federal funding pays the remaining amount of rent to landlords.

made payable to the Fallace Insurance Agency. The policy became effective on May 19, 2013.

- j. During the early summer of 2013, an ICAT agent called BNDC and spoke with Lynn Brockwell-Carey, the Executive Director of BNDC. During the course of the conversation, Ms. Brockwell-Carey told the ICAT agent that some of the tenants at Greater Heights use Section 8 vouchers. Upon information and belief, at or about the same time, an ICAT agent also visited Greater Heights to conduct an inspection.
- k. On or about July 3, 2013, BNDC's insurance agent called Ms. Brockwell-Carey and informed her that BNDC's insurance policy underwritten by Lloyd's would be canceled. Ms. Brockwell-Carey inquired about the reason for the cancellation, and BNDC's insurance agent informed her that the policy was cancelled because more than 10% of the tenants at Greater Heights were Section 8 voucher-holders.
- l. Shortly thereafter, BNDC received a 28-day written notice of cancellation of its insurance policy underwritten by Lloyd's, dated July 1, 2013. The notice of cancellation had the heading "Underwriters at Lloyds of London," and stated that Greater Heights was an "Ineligible Risk -- Ineligible due to but not limited to: Location 1 Building 1-Building 8: Section 8 accepted at location." *See* Ex. 1, Cancellation Notice.
- m. The cancellation of BNDC's commercial property insurance for dwellings and wind insurance policy underwritten by Lloyd's constitutes discrimination based on race and disability because it has a disparate impact on Black or African-American people and persons with disabilities, based on the demographic statistics of voucher-holders compared to the demographic statistics of the population as a whole. According to the American Community Survey 2012 Three-Year Estimates and the 2012 HUD Picture of Subsidized Housing:
 - i. The population of Florida is 76.3% White, 16.0% Black or African-American, and 12.9% persons with disabilities.
 - ii. In Florida, 61% of Section 8 voucher-holders are Black or African-American, and 20% of Section 8 voucher-holders are persons with disabilities.
 - iii. The population of Brevard County is 83.5% White, 10.1% Black or African-American, and 15.1% people with disabilities.

- iv. In Brevard County, 68% of voucher-holders are Black or African-American, and 20% of voucher-holders are persons with disabilities.
- v. The population of the City of Melbourne is 83.6% White, 9.8% Black or African-American, and 15.9% persons with disabilities.
- vi. In the City of Melbourne, 50% of voucher-holders are Black or African-American, and 28% of voucher-holders are persons with disabilities.
- vii. Thus, Black or African-American individuals in the state of Florida are 8.2 times more likely to use Section 8 vouchers than non-Black or African-American individuals. Similarly, Black or African-American individuals in Brevard County are 18.9 times more likely to use Section 8 vouchers than non-Black or African-American individuals, and Black or African-American individuals in the City of Melbourne are 9.2 times more likely to use Section 8 vouchers than non-Black or African-American individuals.
- viii. Persons with disabilities in the state of Florida are 1.7 times more likely to use Section 8 vouchers than persons without disabilities. Similarly, persons with disabilities in Brevard County are 1.4 times more likely to use Section 8 vouchers than persons without disabilities, and persons with disabilities in the City of Melbourne are 1.6 times more likely to use Section 8 vouchers than persons without disabilities.
- n. Lloyd's refusal to insure properties with tenants utilizing Section 8 vouchers, or with more than a certain percentage of such tenants, has no legally sufficient justification.
- o. Even if Lloyd's refusal to insure Greater Heights has a legitimate business justification, there are reasonable alternatives that have no or a less discriminatory effect.
- p. BNDC's commercial property insurance for dwellings and wind insurance policy underwritten by Lloyd's was canceled on July 28, 2013.
- q. Through its insurance agent, BNDC began to search for a policy to replace the cancelled coverage.

- r. BNDC eventually secured a new commercial property policy, excluding wind coverage, from Century Surety Company (“Century”). BNDC also secured a new, separate wind insurance policy through ICAT, placed with underwriters at Lloyd’s. Both policies became effective on July 28, 2013. BNDC paid the combined premium amount of \$10,881.93 with a check made payable to the Fallace Insurance Agency on August 6, 2013.
- s. The combined premiums of BNDC’s new policies with Century and ICAT are higher than the premium of the cancelled combined policy underwritten by Lloyd’s. BNDC now pays a premium of \$4,163.18 to Century for commercial property insurance and \$6,718.75 to ICAT for wind insurance, for a total of \$10,881.93. BNDC previously paid a premium of \$9,174.82 total to Lloyd’s for the commercial property insurance for dwellings and wind insurance policy.
- t. In addition, though BNDC received a partial refund of \$6,733.80 of its premium from Lloyd’s on September 30, 2013, there was an approximately two-month-long period during which BNDC was covered under its new policy and had not yet received a refund from its old policy, such that it was unable to put those funds towards its new premium.
- u. The discriminatory underwriting criteria employed by Lloyd’s based on the presence of Section 8 tenants have injured BNDC. Without limitation, Lloyd’s discriminatory underwriting criteria and actions resulted in:
 - i. BNDC making higher premium payments to maintain property and wind insurance for Greater Heights.
 - ii. The loss of use of BNDC’s unused premium at Lloyd’s during the two months that Lloyd’s retained that premium but did not insure Greater Heights.
 - iii. Diversion of BNDC’s staff time and resources in order to address this matter, which has caused frustration of BNDC’s community redevelopment mission.
- v. FHC has also suffered damages as a result of Lloyd’s discriminatory underwriting policies, because it has devoted time and resources to assisting BNDC, investigating Lloyd’s, and informing the community about the illegality of Lloyd’s policies. These activities have caused a diversion of FHC’s organizational resources from its counseling and educational activities and frustrated its ability to achieve its mission of ensuring equal access to housing for all people, regardless of race or disability.

8. The most recent date on which the alleged discrimination occurred:

July 28, 2013.

9. Types of Federal Funds identified:

N/A

10. The acts alleged in this complaint, if proven, may constitute a violation of the following:

42 U.S.C. §§ 3604(a), (b), and (f); 3605; and 3617.

I declare under penalty of perjury that I have read this complaint and that it is true and correct.

Lynn Brockwell-Carey, for BNDC

(Date)



David Baade, for FHC

June 23, 2014
(Date)

NOTE: HUD WILL FURNISH A COPY OF THIS COMPLAINT TO THE PERSON OR ORGANIZATION AGAINST WHOM IT IS FILED.

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July 28, 2013.

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N/A

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Lynn Brockwell-Carey, for BNDC

6/24/14

(Date)

David Baade, for FHC

(Date)

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EXHIBIT

1

Underwriters at Lloyds of London

Insured
Greater Heights LLC
1151 Masterson Street
Melbourne, FL, 32935

Policy Number
09-7590275964-L-00

Producer

Date of Mailing

07/01/2013

Bass Underwriters (Satellite Beach FL)
1290 Highway A1A
Suite 102
Satellite Beach, FL, 32937

Date of Notice

07/01/2013

Notice of Cancellation

Effective Date of Cancellation

7/28/2013 12:01a.m. S.T.

Dear Producer,

This notice is to inform you that the insurance coverage under the indicated policy number will terminate at 12:01 a.m. Standard Time on the date indicated above. This policy is being cancelled for the following reason:

INELIGIBLE RISK

INELIGIBLE DUE TO BUT NOT LIMITED TO: LOCATION 1 BUILDING 1-BUILDING 8:
SECTION 8 ACCEPTED AT LOCATION.

If you have any questions, please contact International Catastrophe Insurance Managers, LLC. immediately.

The following Mortgagee(s)/Lien holder(s) are being notified

1. "Florida Community Loan Fund
501 N Magnolia Ave
Suite 100
Orlando, FL 32801
2. Brevard County Housing & Human Services
2725 Judge Fran Jamieson Way
B-106
Viera, FL 32940
3. City of Melbourne
900 E Strawbridge Avenue
Melbourne, FL 32901

Producer