

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PAULINE M. CLARK, et al.,

Plaintiffs,

CIVIL NO. 85-CV-73427-DT

vs.

HONORABLE PATRICK J. DUGGAN

EDWARD MADIGAN, SECRETARY OF
UNITED STATES DEPARTMENT OF
AGRICULTURE, et al.,

Defendants.

CONSENT JUDGMENT

This matter comes before the Court on the parties' joint request for the entry of a Consent Judgment.

IT IS THEREFORE ORDERED that:

1) (a) For the purposes of this Judgment, "the Federal Defendants" means Defendants Edward Madigan in his official capacity as Secretary of the United States Department of Agriculture (USDA); LA VERNE AUSMAN, in his official capacity as Administrator of the Farmers Home Administration (FmHA), USDA; CALVIN C. LUTZ, in his official capacity as State Director of FmHA, USDA; RICHARD TEMPLE, in his official capacity as an administrator in the Residential Housing Division of the State Office of FmHA, USDA; GARY GOODEMOOT, in his official capacity as District Director of FmHA, USDA; AL HATHAWAY, in his official capacity as a loan technician in the office of the District Director, FmHA, USDA.

(b) For the purposes of this Judgment, "the current Owners" or "Murphy" shall mean Defendants GEORGE MURPHY and CHERYL MURPHY.

(c) For the purposes of this Judgment, "the Prior Owners" means Defendants ROBERT POLLOCK, VERNA POLLOCK, ROLLAND REDMAN, KATHERINE REDMAN, and T.C. BIEBESHEIMER, individually and as representative of Robert Pollock, Verna Pollock, Rolland Redman and Katherine Redman.

(d) For the purposes of this Judgment, "Plaintiffs" means all Plaintiffs.

(e) For the purposes of this Judgment, "the Project" or "Ravenwood Apartments" means a 24-unit apartment complex located in Tecumseh, Michigan.

(f) This Judgment is binding on the parties, their successors, heirs, and assigns.

2) The Federal Defendants shall promptly complete the processing of and approve Defendant Murphy's application for a \$550,000 loan under the FmHA 515 Program (42 USC §1485) for the Project provided that application meets all FmHA requirements. The term of the loan shall be 50 years. It shall bear the established FmHA interest rate applicable as of the date of loan approval or loan closing, whichever is lower.

3) Defendant Murphy shall provide to FmHA all information necessary to complete processing of the loan; shall use his best efforts to comply with FmHA requests to take all steps necessary for the application to be approved and to meet FmHA requirements; and shall promptly execute the loan documents upon approval by FmHA.

4) The parties shall close this loan on or before April 1, 1991.

5) Upon closing, Defendant Murphy shall promptly recertify the income of all Tenants at the Project. All Tenants ineligible for residency in an FmHA Project, under 7 CFR 1930, Subpart C, Exhibit B, shall become month-to-month tenants at the end of their current lease. As month-to-month tenants their tenancy can be terminated to create vacancies for FmHA eligible tenants seeking apartments at Ravenwood. All Tenants admitted to the Project from February 1, 1991 forward must meet FmHA eligibility criteria as set forth in 7 CFR 1930, Subpart C, Exhibit B. All admissions from February 1, 1991 forward shall be subject to the Federal Admissions Preferences established by FmHA.

6) In connection with the 515 Loan Agreement, the Federal Defendants and Defendant Murphy shall enter into an Interest Credit Agreement covering all the units at the Project. In this same connection, Defendants Murphy and FmHA shall enter into five year Rental Assistance Agreements for the following (minimum) number of units: (a) the number of existing tenants eligible for Rental Assistance (including tenants currently receiving HUD Section 8 or voucher subsidies) plus (b) the number of vacancies at the Project as of February 1, 1991. However, in no case shall the Project receive less than twelve rental assistance authorizations. Defendant Murphy agrees to provide the maximum number of Rental Assistance units authorized by FmHA regulation.

7) The Federal Defendants and Murphys shall continue to renew the Interest Credit and Rental Assistance Agreements (subject only to Congressional appropriations to continue the existence of these Programs) during the term of this loan so long as Defendant Murphy remains in compliance with FmHA regulations. Defendant Murphy shall use his best efforts to comply with program regulations and this agreement.

8) In establishing this project as an FmHA project, there shall be established a Project Reserve Account of \$5,000.00, as provided in Paragraphs 10(c) and 14.

9) At closing, Defendant Murphy shall deposit \$38,500.00 in a Supervised Bank Account as provided by 7 CFR 1902.6. Within 60 days of closing Defendant Murphy shall complete the repairs set out in Attachment A, which is incorporated by reference into this Judgment. Funds deposited in the Supervised Bank Account may be used to pay for these repairs.

10) At loan closing the funds received by the Murphys shall be applied in the following priorities:

(a) to pay off all existing debt secured by the Project.

(b) \$38,500.00 to the Supervised Bank Account to fund the repairs set forth in Attachment A.

(c) \$3,000.00 to establish the Project Reserve Account (Paragraph 8).

(d) \$7,000.00 to Plaintiffs' counsel as settlement of Plaintiffs' damage claims against Defendant Murphy.

(e) The remainder shall be released to George and Cheryl Murphy.

11) The project shall be permitted to charge a surcharge to tenant rent to create an owner's equity reserve to the extent such a surcharge is permitted by Section 712(a) of Public Law 101-625.

12) Defendant Murphy shall contract with Centrum Management Co. to fully manage the Project for a period of five years from the date of closing. Defendant Murphy shall not: change management companies; significantly amend the management plan; or go to self-management during this period without the written agreement of Plaintiffs and Defendant FmHA or approval by the Court.

13) At or prior to closing Defendants ROBERT POLLOCK, VERNA POLLOCK, ROLLAND REDMAN, KATHERINE REDMAN, and T.C. BIEBESHEIMER shall pay to Plaintiffs an amount of \$7,000.00.

14) At closing Plaintiffs shall deposit \$2,000.00 into the Project Reserve Account established in Paragraph 8 of this Judgment.

15) No monies received by Plaintiffs in this action shall be considered income or resources to Plaintiffs for the purpose of any USDA funded assistance program.

16) The Federal Defendants shall provide to Plaintiffs' counsel within ten days of receipt or generation by FmHA copies of all loan approval, closing, recertification, and other documents and correspondence relating to this Project up to the

date of closing of the loan contemplated by this Judgment. For a period of five years after the entry of this Judgment by the Court, Plaintiffs' counsel may obtain copies of any documents relating to this Project by written request to FmHA and Murphy. Defendant FmHA shall provide the requested documents to Plaintiffs' counsel within 20 days of receipt of the request. FmHA is not required by this provision to release records containing confidential information as defined by 5 USC § 552 relating to any tenant or applicant. FmHA may either provide copies of such documents to Plaintiffs with the identifying information blacked out, or may provide Plaintiffs with a statement describing and summarizing the document in lieu of the document itself.

17) Except for the damage awards paid by Defendants ROBERT POLLOCK, VERNA POLLOCK, ROLLAND REDMAN, KATHERINE REDMAN, T.C. BIEBESHEIMER and GEORGE and CHERYL MURPHY, as set forth in this Judgment, Plaintiffs' claims for damages against all Defendants are dismissed with prejudice. The Cross Claims and Counterclaims of Defendants ROBERT POLLOCK, VERNA POLLOCK, ROLLAND REDMAN, KATHERINE REDMAN, and T.C. BIEBESHEIMER are dismissed with prejudice. All possible Cross Claims and Counterclaims by Defendant Murphy are waived and released.


18) This Consent Judgment is a final settlement of this action and is a final dismissal of all claims by and against Defendants POLLOCK, REDMAN, and BIEBESHEIMER. However, the Court shall retain jurisdiction of this cause as to Plaintiffs,

Defendant FmHA, and Defendant Murphy for three years. Any of these parties may seek enforcement of the terms of this Judgment or further relief consistent with the purposes of this Judgment through a motion in this Court within this period. If no motion for further relief is pending at the end of this period, this Judgment is a final dismissal of all claims by and against all parties.


19) This Judgment is entered without prejudice to Plaintiffs' counsel's right to file a motion for attorneys' fees under the Equal Access to Justice Act. This Agreement shall not constitute any admission of liability on the part of the Federal Defendants, including liability for attorneys' fees under the Equal Access to Justice Act.

20) Except as Plaintiffs' fees and costs are preserved in Paragraph 19, each party shall bear its own costs.

Respectfully submitted,

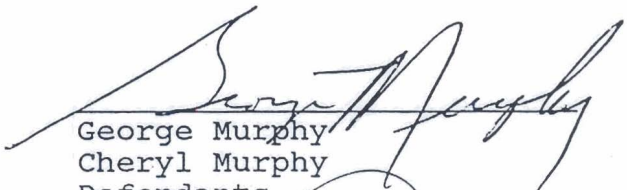


Robert F. Gillett
John Erdevig
Attorneys For Plaintiffs

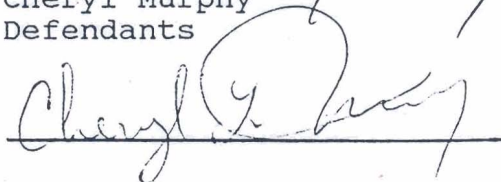


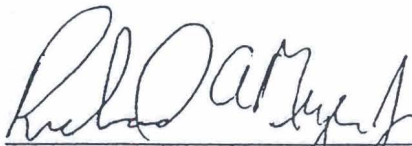
Anthony W. Norwood
Attorney For Federal
Defendants



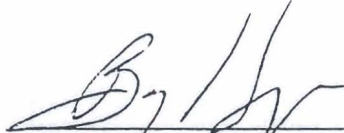


George Murphy
Cheryl Murphy
Defendants





Richard A. Meyer Jr.
Attorney For Defendants
Robert and Verna Pollock and
Rolland and Katherine Redman



Barry E. Savage
Attorney For Defendant
T.C. Biebesheimer

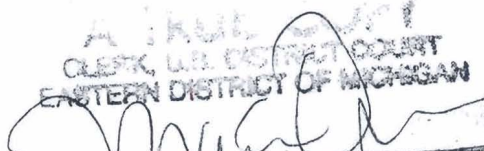
SO ORDERED:

MAY 21 1991

Dated: _____

PATRICK J. DUGGAN

Patrick J. Duggan
United States District Judge

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
BY  DEPUTY CLERK