UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION

LAROSA ROUNDTREE, JESSIE TURNER, FREDDIE LEE JONES,

Plaintiffs,

-vs- Case No. 5:09-cv-234-Oc-10GRJ

UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, SECRETARY OF THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, HAVEN MARION MANOR, LLC, a Florida Limited Liability Company,

Defendants.

PRELIMINARY INJUNCTION

This case is before the Court for consideration of the Plaintiffs' Emergency Motion for Preliminary Injunction (Doc. 10), to which Defendants United States Department of Housing and Urban Development and Secretary of the United States Department of Housing and Urban Development (collectively "HUD") have responded (Doc. 13). A hearing was held on the Motion on August 19, 2008, and the Plaintiffs' have filed a Proposed Order of Injunction (Doc. 10-20). The Motion is therefore ripe for review and, for the reasons set forth below, it is due to be granted.

Background

The facts, as set forth in the Plaintiffs' Amended Complaint (Doc. 9) and the Parties' submissions, are as follows. Marion Manor Apartments is a 100-unit apartment complex that provides low-income housing in Ocala, Marion County, Florida. The complex was developed in approximately 1969 with mortgage financing insured under the National Housing Act, 12 U.S.C. § 17151(d)(3). The terms of the mortgage and Regulatory Agreement required that Marion Manor be used solely for housing of low-income residents for the duration of the mortgage. The Plaintiffs are all current low-income residents of Marion Manor Apartments. Approximately 90% of Marion Manor's tenants are African-American.

Since at least 1983, Marion Manor has been the subject of a Housing Assistance Payments project-based rental subsidy contract ("HAP Contract") under Section 8 of the United States Housing Act, 42 U.S.C. § 1437f.[1] The HAP Contract provides a monthly

[1]In 1974, Congress created the Section 8 housing program by amending the United States Housing Act of 1937, "to ai[d] low-income families in obtaining a decent place to live,' 42 U.S.C. § 1437f(a) . . . by subsidizing private landlords who could rent to low-income tenants." Cisneros v. Alpine Ridge Group, 508 U.S. 10, 12 (1993). Section 8 assistance comes in two forms: (1) project-based assistance; and (2) tenant-based assistance. 24 C.F.R. § 982.1(b). Project-based assistance is dedicated to a specific apartment building or complex, with HUD making subsidy payments to a property owner, either directly or through a contract administrator, such as a public housing authority, which then pays the subsidies to the owner. Id., see also 24 C.F.R. § 886.309; § 982.151(a). The owner and HUD execute a contract that specifies the maximum monthly rent that the owner may charge. Low-income tenants pay a portion of the rent according to their ability to pay, and HUD makes up the difference. Cisneros, 508 U.S. at 12; 42 U.S.C. § 1437f(d). Tenant-based assistance comes in the form of a HUD-funded voucher, which eligible tenants may use to pay rent to participating landlords that can provide apartment units meeting proper standards for decent, safe, and sanitary housing. 24 U.S.C. § 982.1(a), (b); 42 U.S.C. § 1437f(o).

rental subsidy from HUD[2] to Defendant Haven Marion Manor, LLC ("Haven"), the current owner of Marion Manor.[3] For each unit occupied by a low-income family, HUD pays Haven a subsidy consisting of the difference between the rental amount listed in the HAP Contract and the family's contribution. The family contribution is limited to no more than 30% of the family's income. In some instances, HUD also provides financial assistance to certain tenants to help them pay their utility bills. All of the Plaintiffs receive HAP payments, which covers the majority of their rent, and in some instances, their utility bills as well.

Section 8 HUD housing such as Marion Manor "must be decent, safe, sanitary, and in good repair. Owners of [the] housing . . . must maintain such housing in a manner that meets the physical conditions set forth in this section in order to be considered decent, safe, sanitary, and in good repair." 24 C.F.R. § 5.703; see also 24 C.F.R. §§ 886.123(a), 886.323(a). These standards require that the site be "free of health and safety hazards and be in good repair." 24 C.F.R. § 5.703(a). "The site must not be subject to material adverse conditions," such as "vermin or rodent infestation or fire hazards" or "dangerous walks or steps." Id. The buildings must be "structurally sound, secure, habitable, and in

[2]HUD is the federal agency charged with the administration and enforcement of all federal laws and contracts related to the operation, administration, maintenance, rehabilitation, and disposition of federally assisted multi-family properties, including Marion Manor.

[3]Haven purchased Marion Manor in 2004. At that time, Haven was assigned the property's existing HAP Contract. The most recent iteration of the HAP Contract was executed in June 2005 between Haven and HUD, and was for a four-year term. On June 4, 2009 HUD renewed the HAP Contract with Haven for a one-year period in order to accomplish abatement of the Contract, relocation of the residents, and termination of Haven's participation in the project-based Section 8 program.

good repair," and its "doors, fire escapes, foundations, lighting, roofs, walls, and windows . . . must be free of health and safety hazards, operable, and in good repair." 24 C.F.R. § 5.703(b). HUD has a legal duty to enforce these requirements through annual inspections, audits, and other actions, including abatement of HAP payments. See e.g., 42 U.S.C. § 1437c(h); 24 C.F.R. §§ 5.705, 200.855, 200.857, 880.612(b)(2), 881.211, 886.123(c), 886.323(e).

On or about October 22, 2004, HUD and Haven entered into a Use Agreement concerning Marion Manor, which was recorded on February 1, 2005. The Use Agreement sets forth the terms under which HUD granted approval of Haven's prepayment of the remaining balance on Marion Manor's insured mortgage prior to the mortgage loan maturity date. Pursuant to the Use Agreement, Haven agreed to use Marion Manor "solely as rental housing for very low and lower income families" until May 1, 2014. The Use Agreement also required Haven to maintain the premises and entire project "in a condition that is decent, safe, sanitary and in good repair, as well as in compliance with all applicable state and local building and health codes."

Similar requirements existed in the HAP Contract. For example, HUD would only make payments to Haven for units occupied by eligible families leasing decent, safe, and sanitary units from Haven in accordance with statutory requirements and HUD regulations. Haven also warranted in the HAP Contract "that the rental units to be leased by the Owner under the Renewal Contract are in decent, safe, and sanitary condition (as defined and

determined in accordance with HUD regulations and procedures), and shall be maintained in such condition during the term of the Renewal Contract."

In the event of a breach or threatened breach of any of the covenants and agreements of the Use Agreement, HUD, or "any eligible tenant" was entitled to institute legal action to: (1) enforce performance and observance of such covenants and agreements; (2) enjoin any acts which are violative of such covenants and agreements; (3) obtain an order of the court commanding specific performance of any of these covenants and agreements; (4) obtain an award of whatever damages can be proven; and (5) obtain such other relief as may be appropriate. The HAP Contract and the Use Agreement both also authorized HUD to take a variety of administrative and legal actions, up to and including termination of the HAP Contract. For example, HUD had the right to require Haven to provide detailed corrective action plans, abate rental assistance to individual units where deficiencies are present, take legal action to compel the owner to perform its duties, or take legal action to appoint a receiver to operate the complex.[4]

HUD officials have been aware of deteriorating conditions at Marion Manor for at least two (2) years. In 2007, Marion Manor scored 31 points out of a possible 100 points on a HUD inspection.[5] Any scores below 60 are considered unacceptable by HUD, and

[4]There is "[n]o limitation on existing enforcement authority," and HUD may take "whatever action may be necessary when necessary . . . to protect the residents of those properties." 24 C.F.R. § 200.857(l).

[5]The inspections are performed by HUD's Real Estate Assessment Center, and the scores reflect the physical conditions of five general areas of the property: site, building, exterior, building (continued...)

are referred to HUD's Departmental Enforcement Center for compliance, disposition, and/or enforcement. The inspections at Marion Manor revealed leaking roofs, smoke detector deficiencies, blocked/unusable fire exits, damaged/broken play area equipment, cracked/broken window panes and inoperable window locks, deteriorating stairways and railings, plumbing and electrical problems, and insect infestations. On October 31, 2007, HUD served Haven with a "Notice of Default of the Housing Assistance Payment Contract" which instructed Haven to take corrective action within 60 days, and warned Haven that failure to do so could result in termination of the HAP Contract.

HUD did not provide this notice to the Plaintiffs or any other Marion Manor tenant.

On February 26, 2008, HUD conducted a follow-up inspection of Marion Manor, and scored the project at 48 out of 100 points. Marion Manor was still in substandard condition and not in compliance with the HAP Contract or HUD regulations. Many of the findings concerned the same types of deficiencies found in the August 2007 inspection. Over the next ten months, HUD officials met with Haven representatives in an attempt to bring Marion Manor into compliance and avoid termination of the HAP Contract. At the end of this period, HUD determined that although Haven had the funds to repair Marion Manor, it had failed to do and remained non-compliant with the terms of the HAP Contract.

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[5](...continued)
systems, common areas, and dwelling units. 24 C.F.R. §§ 5.703, 200.857. The overall inspection score for each area may be reduced by health and safety deficiencies in the areas of air quality, electrical hazards, elevators, emergency/fire exits, flammable materials, garbage and debris, hazards, and infestations. 24 C.F.R. § 5.703.

On February 20, 2009, HUD served Haven a second "Notice of Default of the Housing Assistance Payment Contract," which stated that Marion Manor had scored a 48 on its last inspection and that serious physical deficiencies still existed at the complex. HUD gave Haven a 15-day cure period.

HUD did not provide this notice to the Plaintiffs or any other Marion Manor tenant.

On March 16, 2009, HUD served Haven with a "Notice of Intent to Abate/Suspend and Terminate Housing Assistance." This notice stated that Haven was in default of the HAP Contract for failing to maintain Marion Manor in a decent, safe, and sanitary condition. HUD informed Haven that HUD intended to terminate the HAP Contract and proceed with the relocation of the tenants currently receiving HAP subsidy payments.

HUD did not provide this notice to the Plaintiffs or any other Marion Manor tenant.

On May 10, 2009, a newspaper article ran in the local Ocala newspaper detailing HUD's intention to terminate rental assistance at Marion Manor. On May 11, 2009, Plaintiffs and other Marion Manor tenants received a memorandum from Stephanie J. Benson, Director of Project Management, Multi-Family Housing Division, of the Jacksonville office of HUD. The memorandum advised the tenants for the first time that "due to the physical condition of the property in which you live, HUD has notified the owner that it intends to discontinue the Section 8 assistance at the property." The memorandum further stated that the tenants would be provided notice "at such time as HUD makes a final determination," and promised that eligible tenants would be provided vouchers to assist with their rent at "an alternate location."

On July 17, 2009, HUD served Haven with a "Notice of Abatement and Termination of Section 8 Housing Assistance Payments." This notice informed Haven that HUD would be abating rental assistance payments effective September 1, 2009. It also informed Haven that tenants of Marion Manor would be relocated.

HUD did not provide this notice to the Plaintiffs or any other Marion Manor tenant.

In the 90 days prior to filing of the Plaintiffs' Amended Complaint, Haven has taken significant steps to improve the conditions at Marion Manor, including: (1) hiring a new property management company; (2) making significant plumbing repairs throughout the complex; (3) replacement of all roofs throughout the complex; (4) replacement of all stairways; and (5) replacement of all stairway and walkway handrails throughout the complex. There are no outstanding code violations against the complex and health and safety issues identified by HUD inspections have been corrected. All of the Plaintiffs have also submitted affidavits stating that their apartments are in good condition, their appliances and windows are intact and in working order, and they have no electrical or plumbing problems. The Plaintiffs contend that such significant progress has been made that there is no longer any rational basis for HUD's decision to terminate the HAP Contract.

HUD intends to terminate the HAP Contract as of September 1, 2009. If HUD discontinues the Contract, Marion Manor tenants will be required to either pay the full market rent for their units or to relocate. None of the Plaintiffs and few, if any of the other tenants have the financial means to pay full market rent. Although HUD has offered to issue rent vouchers to eligible tenants, the Plaintiffs contend that there is no guarantee that

they will meet HUD's eligibility requirements and, therefore, they may be left with no relocation assistance. Even if they do receive a voucher, the Plaintiffs face significant hardships resulting from the loss of their home and displacement. Replacement housing is also difficult to find, and there is no guarantee that a private landlord in Ocala, Florida, will accept the vouchers, or that private landlords would renew their leases.[6]

The Plaintiffs initiated this action on May 22, 2009 with the filing of a lawsuit against all three Defendants (Doc. 1). At that time, the Plaintiffs did not file a separate motion requesting injunctive relief. On August 10, 2009, the Plaintiffs filed their Amended Complaint against the Defendants (Doc. 9), which sets forth four claims for relief: (1) that HUD has acted in an arbitrary and capricious manner in violation of the Administrate Procedures Act, 5 U.S.C. § 702 ("APA") (Count I); (2) that HUD has violated the Plaintiffs' Fifth Amendment procedural due process rights (Count II); (3) that HUD has violated the Fair Housing Act, 42 U.S.C. § 3608(c)(5) ("FHA") (Count III); and (4) a claim against Haven for violation of the Use Agreement (Count IV). The Plaintiffs request declaratory and injunctive relief mandating HUD's continuation of the HAP Contract and compliance with the FHA, as well as mandating Haven's compliance with the Use Agreement.[7]

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[6]The Plaintiffs have also presented evidence in support of their Fair Housing Act claim. Because the Court finds that preliminary injunctive relief is warranted with respect to the due process claim, the Court will not address the Fair Housing Act claim. The Court's silence should not be interpreted as a comment on the merit, or lack of merit, of that claim.

[7]The Plaintiffs also seek costs and reasonable attorneys' fees pursuant to 42 U.S.C. § 3613.

In the present motion, the Plaintiffs request preliminary injunctive relief in the form of an order enjoining HUD from terminating or abating the HAP Contract for Marion Manor. (Doc. 10). The Plaintiffs request that such an order remain in full force and effect until Court issues its decision on the merits. Their ultimate goal is the preservation and continuation of Marion Manor as subsidized low-income housing, and they are also pursuing Haven to provide additional funding for repairs and maintenance at the complex.[8]

Preliminary Injunction Standard

A preliminary injunction is "an extraordinary and drastic remedy that should not be granted unless the movant clearly carries its burden of persuasion as to each of the four prerequisites for injunctive relief." Siegel v. LePore, 234 F.3d 1163, 1176 (11th Cir. 2000). To obtain preliminary injunctive relief, the moving party must establish: (1) a substantial likelihood of success on the merits; (2) irreparable injury if the injunction is not granted; (3) the threatened injury to the movant outweighs the threatened harm the proposed injunction may cause to the non-moving party; and (4) the injunction, if issued, would not be a disservice to the public interest. BellSouth Telecomms., Inc. v. MCIMetro Access Transmission Servs., LLC, 425 F.3d 964, 968 (11th Cir. 2005); Johnson v. U.S. Dept. of Agriculture, 734 F.2d 774, 781 (11th Cir. 1984). The primary purpose of a preliminary injunction is to preserve the court's ability to render a meaningful decision on the merits. Canal Authority of State of Fla. v. Callaway, 489 F.2d 567, 572 (5th Cir. 1974).

[8]The Plaintiffs state that Haven has expressed a willingness to carry out further repairs and is attempting to secure funding.

Discussion

I. Substantial Likelihood of Success on the Merits[9]

In this circuit, a claim alleging a denial of procedural due process requires proof of three elements: (1) a deprivation of a constitutionally-protected liberty or property interest; (2) state action; and (3) constitutionally-inadequate process. Grayden v. Rhodes, 345 F.3d 1225, 1232 (11th Cir. 2003); Cryder v. Oxendine, 24 F.3d 175, 177 (11th Cir.1994). See also Fuentes v. Shevin, 407 U.S. 67, 92 S. Ct. 1983, 32 L.Ed.2d 556 (1972). The Plaintiffs contend that they have a substantial likelihood of success on the merits of this claim because by terminating the HAP Contract, HUD will deprive them of their protected property interests in their continued leasehold tenancies at Marion Manor, without notice or a meaningful opportunity to be heard.

There is no dispute that the Plaintiffs have a property interest in their leases that is protected by the Fifth Amendment's Due Process Clause. See HUD v. Rocker, 535 U.S. 125, 135 (2002); Greene v. Lindsey, 456 U.S. 444, 451 (1982); Grayden, 345 F.3d at 1232; Ward v. Downtown Dev. Auth., 786 F.2d 1526, 1528-29 (11th Cir. 1986). It is equally undisputed that the Plaintiffs do not have any property interest in the HAP Contract subsidy payments themselves. Thus, in order to prevail on this claim, the Plaintiffs must

[9]The Plaintiffs originally sought preliminary injunctive relief on all three claims against HUD. At the hearing, however, counsel stated that the Plaintiffs were no longer pursuing such relief on the basis of their APA claim.

demonstrate that HUD's termination of the HAP Contract and its related subsidy payments is in effect a deprivation of their leasehold rights such that Due Process protections apply.

At the hearing and in their initial motion papers, counsel for the Plaintiffs argued that terminating the subsidy payments would be a *de facto* eviction from Marion Manor. In response, counsel for HUD stated that terminating the subsidy payments would not equate to an eviction because the Plaintiffs were free to remain at Marion Manor so long as they were able to pay the entire amount of their rent. HUD counsel further stated that the Plaintiffs would be eligible for HUD vouchers which would assist in rental payments, thus making it a very real possibility that the Plaintiffs' leases at Marion Manor (which must remain low-income housing through May 1, 2014) would never be affected.

However, two days after the hearing, both sides submitted supplemental materials. The Plaintiffs have pointed to a provision in each of their leases with Marion Manor which states that "[t]he lease agreement will terminate automatically, if the Section 8 Housing Assistance contract terminates for any reason." (Doc. 16-2, p. 11). Thus, contrary to HUD's position, terminating the HAP Contract subsidy payments will to a certainty terminate the Plaintiffs' protected leasehold interests.

Having found that the Plaintiffs have a constitutionally protected property right, the next step is to determine what process is due. "There can be no doubt that, at a minimum, the Due Process Clause requires notice and the opportunity to be heard incident to the deprivation of life, liberty or property at the hands of the government." Grayden, 345 F.3d at 1232 (citing Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306, 313, 70 S. Ct.

652, 656-57, 94 L.Ed. 865 (1950)). And it is equally clear that the government must provide the requisite notice and opportunity for a hearing "at a meaningful time and in a meaningful manner," although in "extraordinary situations" the provision of notice and a hearing may be postponed until after the deprivation has occurred. Id. (quoting Fuentes, 407 U.S. at 80, 90, 92 S. Ct. at 1994).[10]

The facts presented make clear that HUD did not provide the Plaintiffs with notice or an opportunity to be heard before it decided to deprive the Plaintiffs of their protected leasehold interests. The May 11, 2009 notice - the first time anyone at HUD contacted the Plaintiffs - stated that HUD had already "notified the owner that it intends to discontinue the Section 8 assistance at the property." While the notice promised that HUD would notify Marion Manor tenants "at such time as HUD makes a final determination," there was no request for any tenant input, and the notice made clear that any further communications from HUD would merely be to provide tenants information on the HUD voucher program and relocation options. In fact, it does not appear that HUD ever directly notified any tenants that it had decided to terminate the HAP Contract as of September 1, 2009 until after this lawsuit was filed.

At the hearing, counsel for HUD submitted two notices which were sent to all Marion Manor tenants. Both notices are dated August 18, 2009 - eight days after the Plaintiffs filed

[10]HUD has not argued that extraordinary situations existed in this case such that pre-deprivation notice was not practicable and the facts before the Court would not support such a theory.

their motion for preliminary injunction - and stated that a meeting for all tenants was scheduled for August 27, 2009 at 10 a.m. HUD contends that to the extent the Plaintiffs are entitled to any due process, it has been satisfied by these notices and meeting. A review of these notices uncovers the weakness in this argument.

The first is a "Notice of Change in Rental Subsidy and Offer of Relocation Assistance" from HUD's Atlanta Multifamily Property Disposition Center. The notice stated that HUD "has made a determination to discontinue funding of its project-based Section 8 contract with Marion Manor Apartments." The notice further stated that a meeting for all tenants currently receiving project-based Section 8 rent subsidies would be held on August 27, 2009 at 10:00 a.m. "to provide detailed information on the voucher application process and the relocation services and benefits that will also be made available." In other words, the notice made clear that HUD's decision was final, and the only opportunity for the Plaintiffs to be heard would be with respect to the procedures for applying for vouchers.

The second notice was from the Ocala Housing Authority and is quite similar. It simply stated that the tenants may be eligible for rental vouchers, and that a meeting will be held on August 27, 2009 to process voucher applications. The notice also included a list of information required for the voucher applications.

These notices clearly did not provide the Plaintiffs with a meaningful opportunity to be heard. Rather, they make clear that HUD's mind was already made up, and that the Plaintiffs had absolutely no say in the deprivation of their tenancy rights. Instead, the Plaintiffs and other tenants were expected to attend this meeting for the sole purpose of

applying for Section 8 rental vouchers. There is no indication on either notice that the Plaintiffs would have any chance to discuss HUD's termination of the HAP Contract, much less an opportunity to try and change HUD's decision. Simply telling a person that their property rights are being taken away, and to come to a meeting to fill out paperwork to facilitate that deprivation does not satisfy constitutional due process.

> "The fundamental requisite of due process of law is the opportunity to be heard." Grannis v. Ordean, 234 U.S. 385, 394, 34 S. Ct. 779, 783, 58 L.Ed. 1363 (1914). This right to be heard has little reality or worth unless one is informed that the matter is pending and can choose for himself whether to appear or default, acquiesce or contest. . . . An elementary and fundamental requirement of due process in any proceeding which is to be accorded finality is notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.

Mullane, 339 U.S. at 314, 70 S. Ct. at 657 (internal citations omitted).[11]

The Court therefore finds that the Plaintiffs have established a substantial likelihood of success on the merits of their due process claim.[12]

II. Other Elements for Injunctive Relief

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[11]HUD's counsel argued at the hearing that it there was a very remote possibility that HUD could change its mind and not terminate the HAP Contract, if all of the Marion Manor tenants attended the August 27, 2009 meeting and voiced strong objections. The Court finds this argument unpersuasive - all of the evidence establishes that HUD has reached its final decision and that the purpose of the meeting was simply to complete voucher applications.

[12]This Order should not be read to mean that every government action that has a collateral effect on a citizen's property rights - no matter how attenuated - will automatically entitle that citizen to notice and an opportunity to be heard. Under the facts of this particular case, it is clear that the leases between the Plaintiffs and Haven are inextricably intertwined with the HAP Contract: the leases reference HUD and HAP subsidy payments in several provisions, and the leases will automatically terminate if the HAP Contract terminates. See e.g., Doc. 16-2. Thus, it is clear in this case that HUD's intended actions will have a direct impact on the Plaintiffs' leases.

The Court also finds that the Plaintiffs have satisfied the remaining elements for preliminary injunctive relief. If the HAP Contract and its subsidy payments terminate, the Plaintiffs' leasehold interests at Marion Manor will immediately terminate. The Plaintiffs will then face eviction (or, at least, the legal prospect of it), and the loss of a constitutionally protected right. This is clearly an irreparable harm. Alternatively, there is no evidence that HUD will suffer any harm if the HAP Contract remains in effect - the Plaintiffs merely seek to maintain the status quo. Moreover, the financial impact on HUD would appear to be minimal if it intends to commence making voucher payments in the absence of the HAP Contract, using the same funds currently used for the subsidy payments.[13] Lastly, there can be no doubt that it is in the public's interest to permit low-income and very low-income families to remain in subsidized housing, at least until their constitutional due process rights are fully exercised. See Cole v. Lynn, 389 F. Supp. 99, 105 (D.C. 1975).

Conclusion

Having found that the Plaintiffs have satisfied all of the requirements for preliminary injunctive relief with respect to their due process claim, the Plaintiffs' Emergency Motion for Preliminary Injunctive Relief (Doc. 10) is GRANTED.

Preliminary Injunction

[13]HUD contends that they would be harmed by an injunction because it would impede the agency's purpose to protect the well-being of people living in substandard and physically precarious housing. The Court does not find this stated harm outweighs the harm the Plaintiffs will face from the termination of their leases and eviction. Moreover, the Plaintiffs have presented unrefuted evidence that Haven has made recent substantial improvements to the property, and corrected all outstanding code violations.

Defendants United States Department of Housing and Urban Development and Secretary of the United States Department of Housing and Urban Development, their officers, agents, servants, employees, attorneys, and other persons acting in concert or participation with such persons or the Defendants, are hereby PRELIMINARILY ENJOINED from terminating the HAP Contract with Haven Marion Manor, LLC pending further order of the Court.

Defendants may apply for the dissolution of this Preliminary Injunction after the Plaintiffs have been given advance notice and a meaningful opportunity to be heard on the substantive decision of the termination of the HAP Contract.[14]

The Plaintiffs are not required to post any bond.

IT IS SO ORDERED.

DONE and ORDERED at Ocala, Florida this __28th__ day of August, 2009.

UNITED STATES DISTRICT JUDGE

Copies to: Counsel of Record

[14]A meaningful opportunity to be heard, in this case, means providing the Plaintiffs with an opportunity to address the decision maker or decision makers who terminated the HAP Contract, either orally or in writing, during a reasonable period of time set aside for the purpose of considering the Plaintiffs' propositions, arguments, and/or material relevant to the decision.