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6
7 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
8 IN AND FOR THE COUNTY OF MARICOPA

9 THE STATE OF ARIZONA ex rel. TERRY
10 GODDARD, the Attorney General, and THE
11 CIVIL RIGHTS DIVISION OF THE ARIZONA
DEPARTMENT OF LAW,

12 Plaintiff,

13 vs.

14 BATES M. SALE and WANDA S. SALE,
husband and wife; BATES M. SALE FAMILY
15 PARTNERSHIP, an Arizona limited partnership;
16 BATES M. SALE INVESTMENT COMPANY,
an Arizona corporation

17 Defendants.

No. CV2004-010054

**COMPLAINT FOR DAMAGES
AND INJUNCTIVE RELIEF**

(Other Civil)

18
19 For its complaint, Plaintiff alleges and states, as follows:

20 INTRODUCTION

21
22 This is an action under the Arizona Fair Housing Act, A.R.S. §§ 41-1491 to 1491.37, to
23 remedy and provide appropriate damages and penalties for Defendants' unlawful familial
24 status discrimination in housing and unlawful interference with rights protected under the
25 Arizona Fair Housing Act.

26 JURISDICTION AND VENUE

27 1. This court has jurisdiction of this matter pursuant to A.R.S. § 41-1491.34(A).

1 renting a space, Decker would try to discourage them by telling them that there was not much
2 for children to do at the Park. Decker also told Park residents that the Park intended not to
3 renew leases of people who were under 55 years of age because it did not want to have
4 children living there after June 2004. Aside from the Bowers, and a family who rented a space
5 for only 6-months and is scheduled to leave in June 2004, no families with minor children
6 currently live at the Park.

7 10. Rule 23 of the Park Rules and Regulations, which was in effect for the 2002-
8 2003 season, states, among other things, that children under 14 years of age must be
9 accompanied by an adult anywhere in the Park, and may not ride bicycles, roller-blades, roller-
10 skates, or skateboards in the Park.

11 11. Rule 24 of the 2002-2003 Park Rules and Regulations relates to use of the pool,
12 but contains no specific restrictions for children.

13 12. On or about April 19, 2003, Defendant Bates Sale sent a letter to the Bowers
14 ordering them to keep their child out of the hot tub until age 16, and to keep their child out of
15 the pool until she was completely toilet trained. Despite written requests by the Bowers,
16 Defendant Bates Sale refused to change his position concerning the Bowers' daughter's use of
17 the pool.

18 13. On or about July 27, 2003, Lynne Bowers filed an administrative fair housing
19 complaint with the U.S. Department of Housing and Urban Development ("HUD") under HUD
20 No. 09-03-0836-8, alleging that the Park engaged in familial status discrimination. HUD dual-
21 filed the fair housing complaint with the Division under CRD No. 03-4710, and requested that
22 the Division investigate. On or about August 8, 2003, the Division notified Defendants Bates
23 Sale and Wanda Sale of Lynne Bowers' fair housing complaint ("the administrative
24 complaint"). The administrative complaint was timely filed.

25 14. For the 2003-2004 season, the Park modified Rule 23 of the Park Rules and
26 Regulations to add a provision stating that children under age 16 are not allowed in the hot tub
27

1 and that children who are not toilet trained are not allowed in the pool. The Park changed the
2 rules due to the Bowers' daughter.

3 15. On or about March 3, 2004, Defendant Bates Sale notified the Bowers in writing
4 that because of past differences and the Bowers' feeling that the Park was discriminating
5 against them, their lease at the Park would not be renewed and they would be expected to
6 vacate the premises by May 5, 2004.

7 16. Defendants did not renew the Bowers' lease because the Bowers had filed an
8 administrative complaint of housing discrimination against the Park and they did not want
9 children to live in the park.

10 17. The Division investigated the administrative complaint of housing discrimination
11 pursuant to A.R.S. § 41-1491.22.

12 18. On or about April 20, 2004, the Division issued a finding of reasonable cause to
13 believe that discrimination had occurred.

14 19. Thirty days have passed since issuance of the reasonable cause finding by the
15 Division and the parties to the administrative complaint have not entered into a conciliation
16 agreement.

17 COUNT ONE

18 (Familial Status Discrimination in Violation of the Arizona Fair Housing Act)

19 20. Plaintiff realleges and incorporates by reference the allegations contained in
20 paragraphs 1 through 19 of this Complaint.

21 21. A.R.S. § 41-1491.01 of the Arizona Fair Housing Act states that a discriminatory
22 act is committed because of familial status if the act is committed because the person who is
23 the subject of discrimination is domiciled with an individual younger than eighteen years of
24 age in regard to whom the person is the parent.

25 22. A.R.S. § 41-1491.15 of the Arizona Fair Housing Act prohibits making, printing
26 or causing to be made statements with respect to the rental of a dwelling which indicate a
27 preference, limitation or discrimination based on familial status or an intention to make such a
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1 preference, limitation or discrimination. Defendants engaged in familial status discrimination
2 in violation of A.R.S. § 41-1491.15 by steering families away from renting spaces at the Park,
3 by informing residents of their intent not to have children in the Park, by informing residents
4 that the leases of younger people would not be renewed so that the Park could convert to
5 housing for persons age 55 and over, and by publishing rules imposing undue restrictions on
6 children's ability to be unaccompanied in the Park.

7 23. A.R.S. § 41-1491.14(A) of the Arizona Fair Housing Act prohibits making a
8 dwelling unavailable because of familial status. Defendants engaged in familial status
9 discrimination in violation of A.R.S. § 41-1491.14(A) of the Arizona Fair Housing Act by
10 refusing to renew the Bowers' lease and by advising them to move out of the Park because of
11 their familial status.

12 24. A.R.S. § 41-1491.14(B) of the Arizona Fair Housing Act prohibits imposing
13 different terms, conditions and privileges of rental of a dwelling based upon familial status.
14 Defendants engaged in familial status discrimination in violation of A.R.S. § 41-1491.14(B) by
15 imposing different terms, conditions and privileges of renting a dwelling upon the Bowers
16 when it refused to renew their lease because of their familial status.

18 COUNT TWO

19 (Intimidation and Retaliation in Violation of A.R.S. § 41-1491.18)

20 25. Plaintiff realleges and incorporates by reference the allegations contained in
21 paragraphs 1 through 24 of this Complaint.

22 26. A.R.S. § 41-1491.18 of the Arizona Fair Housing Act makes it unlawful to
23 coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or
24 having exercised or enjoyed any right, or on account of having aided or encouraged any other
25 person in the exercise or enjoyment of, any right granted or protected by A.R.S. §§ 41-
26 1491.18, 41-1491.14, and 41-1491.15. Defendants coerced, intimidated, threatened, retaliated,
27 and interfered with the Bowers in the exercise and enjoyment of their dwelling by refusing to
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1 renew their lease and requesting that they move out of their dwelling because the Bowers
2 lived with their minor child at the Park and engaged in activity protected by the Arizona Fair
3 Housing Act by filing an administrative complaint of housing discrimination.

4
5 **COUNT THREE**

6 (Pattern and Practice of Discrimination in Violation of A.R.S. § 41-1491.35)

7 27. Plaintiff realleges and incorporates by reference the allegations contained in
8 paragraphs 1 through 26 of this Complaint.

9 28. Defendants are engaged in a pattern or practice of resistance to the full
10 enjoyment of rights granted to families with children under the Arizona Fair Housing Act, and
11 the Bowers and their minor child have been denied rights granted by the Arizona Fair Housing
12 Act and that denial raises an issue of general public importance, all in violation of A.R.S. §
13 41-1491.35 of the Arizona Fair Housing Act.

14 WHEREFORE, Plaintiff requests that the Court provide the following relief:

- 15 1. Judgment against Defendants for familial status discrimination in violation of
16 the Arizona Fair Housing Act;
- 17 2. Judgment against Defendants for interference with the Bowers' exercise of
18 rights protected by the Arizona Fair Housing Act;
- 19 3. Monetary damages in an amount to be determined at trial to compensate the
20 Bowers for costs and expenses incurred or to be incurred for moving out of the Park and for
21 transporting and/or replacing their trailer motor home and its attached room addition, as a
22 result of Defendants' unlawful conduct;
- 23 4. Compensatory damages in an amount to be determined at trial to compensate
24 the Bowers for embarrassment, inconvenience, emotional distress, and denial of civil rights;
- 25 5. Statutory civil penalties to vindicate the public interest due to Defendants'
26 pattern or practice of resistance to full enjoyment of rights granted by the Arizona Fair Housing
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1 Act, in an amount up to \$50,000 for a first violation;

2 6. A permanent injunction enjoining Defendants, their officers, directors,
3 partners, successors and assigns and all persons in concert and participation with them from
4 engaging in any housing-related practice which discriminates on the basis of familial status or
5 interferes with the exercise of rights granted by the Arizona Fair Housing Act;

6 7. An order requiring Defendants to institute and carry out policies, practices
7 and programs which provide equal housing opportunities for all tenants and prospective tenants
8 of Defendants, and which eradicate the effects of their present unlawful housing policies and
9 rules, including but not limited to policy and rule changes and training;

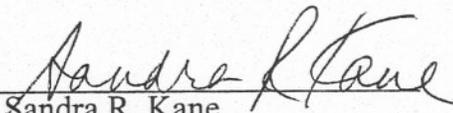
10 8. An order requiring the Division to monitor Defendants' compliance with the
11 Arizona Fair Housing Act and an order for Defendants to pay the Division a reasonable
12 amount for such monitoring;

13 9. An award to the Division for its costs in bringing this action; and

14 10. Such other and further relief as the Court deems just and proper in the public
15 interest.

16 DATED this 20th day of May, 2004.

17 TERRY GODDARD
18 Attorney General

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20 By 
21 Sandra R. Kane
22 Assistant Attorney General
23 Civil Rights Division
24 Attorneys for Plaintiff
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