

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA**

GREATER NEW ORLEANS FAIR HOUSING
ACTION CENTER, and
WALLACE RODRIGUE,

Plaintiffs,

vs.

ST. BERNARD PARISH and ST. BERNARD
PARISH COUNCIL,

Defendant.

* CIVIL ACTION
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* NO. 2:06-CV-07185
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* SECTION C
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* JUDGE BERRIGAN
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* MAGISTRATE JUDGE SHUSAN
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**AMENDED COMPLAINT FOR INJUNCTIVE RELIEF, DECLARATORY
JUDGMENT, AND REMEDIAL RELIEF**

Plaintiffs make the following representations for judicial relief under the Fair Housing Act of 1968, as amended, 42 U.S.C. § 3601 *et seq.*, 42 U.S.C. §§ 1981, 1982 and 1983, and under the Fourteenth Amendment to the United States Constitution:

Introduction

1. St. Bernard Parish is an historically segregated, predominantly white parish that neighbors the predominantly African-American parish of Orleans. In 2005, Hurricane Katrina caused massive damage to the housing stock in the entire New Orleans area. In the wake of the hurricane, and the massive and disproportionate displacement of minorities in the New Orleans area, the need for rental housing remains pressing. Yet, over the past year, St. Bernard Parish Council has passed ordinances that have the intent and the effect of denying and making unavailable rental housing, which is disproportionately occupied by minorities, on the basis of race and national origin.

2. With respect to the rental of single-family property, St. Bernard Parish first approved an ordinance on March 7, 2006 “placing a moratorium on single-family homes

becoming rental properties until such time as the post Katrina real estate market in St. Bernard Parish stabilizes.” A few months later on July 6, 2006, the Council passed another ordinance that allowed owners to rent their single-family dwellings to any person, but only if the owner acquired a conditional use permit from the Council. Once again, in a few months time, on September 19, 2006, the Parish approved yet another ordinance which continued the severe restrictions on single-family homeowners’ ability to rent their property by narrowing the pool of eligible renters to only the blood relatives of the owner unless the owner obtains a permissive use permit. Specifically, the September ordinance states that “[n]o person . . . shall rent, lease, loan, or otherwise allow occupancy or use of any single-family residence located in an R-1 zone by any persons or group of persons, *other than a family member(s) related by blood within the first, second or third direct ascending or descending generation(s)*, without first obtaining a Permissive Use Permit from the St. Bernard Parish Council.”

3. Each of these ordinances denies and otherwise makes unavailable to non-white persons the ability to rent single-family homes. Each also perpetuates segregation by preserving the Parish as an overwhelmingly all-white enclave. The September ordinance was passed with the intent and has the effect of denying and otherwise making unavailable rental housing to non-white persons and reflects the intent and purpose of the March and July ordinances. Moreover, the sequential passing of all of the ordinances establishes a pattern of actions that were taken with the intent and effect of denying and otherwise making unavailable rental housing to non-whites.

4. With respect to multi-family housing, the Parish acted sooner. On November 1, 2005, a few short months after the devastation of Hurricane Katrina, the Parish Council approved an ordinance “establish[ing] a moratorium on the re-

establishment and development of any multi-family dwellings in St. Bernard Parish” for 12 months. Less than a year later, on September 5, 2006, the Parish passed another ordinance “mitigating” the Village Square area of the Parish, which contains the multi-family housing and where most of the minorities in the Parish live. “Mitigation” will convert this area to green space, making rebuilding of the multi-family housing in this area impossible. These ordinances were passed with the intent and have the effect of denying and making unavailable rental housing disproportionately needed by African American and Hispanic persons. They also perpetuate segregation by curtailing rental opportunities to non-whites.

Parties

5. The Greater New Orleans Fair Housing Action Center, Inc. (“GNOFHAC”), located at 228 St. Charles Avenue, Suite 1035, New Orleans, Louisiana, 70130, is a non-profit fair housing organization in New Orleans. GNOFHAC’s mission is to eradicate housing discrimination and segregation throughout the greater New Orleans area. It engages in education, investigation, and enforcement activities with respect to fair housing laws. GNOFHAC has been injured by St. Bernard’s racially discriminatory housing practices through the diversion of its resources to enforcing fair housing laws violated by defendant’s discriminatory zoning practices, and in seeking to redress and correct the Defendant’s illegal conduct.

6. Plaintiff Wallace Rodrigue grew up in St. Bernard Parish and has lived there for the majority of his life. Mr. Rodrigue owns one multi-family and three single-family dwellings in St. Bernard Parish. Before the hurricane, he lived in one of the single-family residences, rented out units in the multi-family dwelling and was preparing to renovate and rent out the other two single-family residences. Mr. Rodrigue continues

to desire to rent units in his multi-family dwelling and the single-family properties.

However, he has been prevented from doing so because of the multi-family and single-family ordinances passed by the St. Bernard Parish Council.

7. Defendant St. Bernard Parish is a local governmental subdivision located within the Eastern District of Louisiana. St. Bernard Parish operates under a Home Rule Charter governed by the St. Bernard Parish Council. The council consists of the St. Bernard Parish President, Henry “Junior” Rodriguez and 7 elected council members.

Jurisdiction and Venue.

8. Jurisdiction is conferred on this Court by 28 U.S.C. §§ 1331, 1343(a)(3), 2201 and 2202, and by 42 U.S.C. § 3613(a).

9. Venue is proper in this District under 28 U.S.C. § 1391(b) as the claim arose in the Parish of St. Bernard, Louisiana.

Facts

Demographics and Housing Needs in St. Bernard Parish

10. The population of St. Bernard Parish is overwhelmingly white. As of 2000, St. Bernard’s population was 88.3% white, 7.6% African American and 5.09% Hispanic.

11. In St. Bernard Parish, whites are far more likely than racial/ethnic minorities to be homeowners. Whites own virtually all owner-occupied housing in St. Bernard Parish — 93% of all owner-occupied units in the Parish. African Americans, in contrast, own only 4.5 % of owner-occupied units.

12. Minorities in St. Bernard Parish have a far greater need for rental housing than whites. According to 2000 census data, 79% of whites reside in owner-occupied housing, compared to only 21% in rental units. By contrast, minorities have a vastly

disproportionate dependence on rental housing. Fifty-five percent of African Americans are in owner-occupied units compared to 45% in rentals. Sixty-nine percent of Hispanics are in owner-occupied units, and 31% in rentals.

13. The devastation and displacement caused by Hurricane Katrina has increased the need for rental housing in St. Bernard Parish and has made the pool of families seeking rental housing in St. Bernard even more disproportionately minority. Recent studies have consistently confirmed that a substantial and disproportionate share of the population that was most acutely affected and displaced by the hurricanes is African American. An estimated 272,000 of those displaced by Hurricane Katrina in Orleans Parish were African-American, accounting for 73% of the population in the Parish affected by the hurricane. In addition, renters were a disproportionately large portion of the displaced population in the area, and the hurricane has resulted in a shortage of rental units in the area. The need for rental housing in St. Bernard is especially acute: approximately 97% of all rental units in St. Bernard Parish were damaged by the hurricanes. The slow pace of reconstruction and rehabilitation of rental units has significantly impeded the return of African Americans to the Orleans area.

14. St. Bernard Parish has responded to this severe housing need by passing ordinances that have the intent and effect of denying and making unavailable rental housing for African Americans, Hispanics and other minorities based on race and national origin. The Council's intent in passing each of these ordinances has been to preserve the predominantly white character of the Parish by denying or making unavailable rental housing in the Parish, which is desperately needed by minorities throughout the New Orleans metropolitan area.

Single-Family Ordinances

15. On March 7, 2006, by a 5-2 vote, St. Bernard passed an ordinance “placing a moratorium on single-family homes becoming rental properties until such time as the post Katrina real estate market in St. Bernard Parish stabilizes.” By eliminating single-family homes as potentially available rental dwellings — since under previous zoning they could properly be rented — this ordinance had a clear discriminatory impact on minorities who were displaced by the hurricanes and minorities in the Parish who have a vastly disproportionate need for such rental housing.

16. In July 2006, the Council, by a 5-2 vote, passed another ordinance that prohibited owners from renting their single-family dwellings to any person unless the owner acquired a conditional use permit from the Council. Like the March moratorium on rentals, this ordinance had a discriminatory impact on Parish minorities who disproportionately require such rental housing. On information and belief, no owners have sought to obtain conditional use permits pursuant to this ordinance.

17. On September 19, 2006, by a 5-2 vote, St. Bernard passed yet another ordinance that prohibits owners from renting out single-family homes in R-1 zones without a special permit, unless the renter is a blood relative. By restricting the pool of potential renters to the blood relatives of single-family homeowners, nearly all of whom are white, unless special permission is granted, this ordinance has the intent and effect of denying and making unavailable to minorities virtually all single-family rental units in the Parish.

18. This ordinance was passed with the clear intent to deny and make unavailable rental housing to minorities. Since its passage, Council members have made statements that explicitly acknowledge that the blood-relative ordinance was enacted with

the discriminatory intent and effect of excluding minorities and maintaining the predominantly white character of the Parish. For example, Councilman Taffaro, who authored and sponsored the blood-relative ordinance, declared, “[A]ll we’re doing is saying we want to maintain the demographics” Councilman Ricky Melerine has recently declared that the blood-relative requirement was passed because “[w]e don’t want to change the aesthetics of a neighborhood.” Councilman Madary, who voted against the ordinance, stated that based on the hostile reaction of residents about his dissenting vote, greater racial integration “could be a fear of some residents, and that may be what drives them.” Council Chair Dean, who also voted against the ordinance, has expressly stated that the ordinance was passed to “block the blacks from living in these areas.”

19. According to a press release issued by St. Bernard Parish, the five Council members who voted for the September 19 ordinance have claimed that the September ordinance was necessary to preserve the Parish’s history of mostly owner-occupied neighborhoods.

20. This purported rationale does not explain the ordinance, however, since the effect of the new ordinance — permitting some rentals by virtue of an *exception* to the moratorium — is contrary to the proffered basis for the ordinance — preventing rentals. Further, upon information and belief, the Council did not hear or receive any evidence justifying a distinction between renters who are blood relatives and those who are not, nor did any Council member explain the basis for treating blood relatives differently from other renters. Nor did Council records reflect any basis for explaining how rental use of single-family homes by anyone, permitted under zoning ordinances in effect prior to the storm, disrupted the “integrity” or “character” of the Parish.

21. Because the purported basis for the blood-relative ordinance — preserving the owner-occupied character of the Parish — lacks a clear relationship to the actual effect of the ordinance — permitting some rentals to a virtually all-white class of persons while denying rentals to virtually all minorities — the Parish cannot and did not articulate any legitimate interest sufficient to justify the discriminatory effect of the ordinance. In sum, the Council's asserted basis for the blood-relative ordinance lacks any rational relationship to the ordinance itself and is a pretext for its discriminatory purpose.

22. The explicit discriminatory purpose and effect of the September ordinance reflects the purpose and effect of the March and September ordinances. Taken together, these ordinances establish a pattern and practice of discrimination which has been taken by the Parish Council with the purpose and having the effect of denying and making unavailable rental housing on the basis of race and national origin.

Harm Caused by the Single-Family Ordinance

23. As a result of the September ordinance, minority persons who would otherwise be permitted to rent single-family homes in St. Bernard Parish are denied that opportunity. Specifically, single-family home rental opportunities are available to some white persons, but denied to virtually all minorities. As a result, this ordinance has a disproportionate effect on minorities and perpetuates the segregation of the predominantly white parish. This harm is particularly severe due to the tremendous need and demand for rental housing in the New Orleans area since Hurricane Katrina.

24. Because of the blood-relative ordinance, owners of single-family homes in St. Bernard Parish are denied the opportunity to rent to persons of their choosing, regardless of their race or relation, and rental housing is denied and made unavailable because of race and national origin.

25. Mr. Rodrigue owns three single-family homes in St. Bernard Parish. Before the hurricanes, he lived in one of the single-family residences and were renovating the other two for the purpose of making them rental properties. These two properties belonged to Mr. Rodrigue's mother, who has now passed, and he does not have blood relatives who are available to live in them. Without the prospects of rents, Mr. Rodrigue cannot afford to invest in these properties and rehabilitate them. Because of the blood-relative ordinance, these properties will remain empty and unrepaired during a time of great need for reconstruction of rental housing.

26. The Council's enactment of the series of ordinances constitutes a practice and policy of housing discrimination on the basis of race and national origin. As a result, GNOFHAC has suffered, continues to suffer, and will suffer in the future irreparable loss and injury, including, but not limited to: (a) interference with GNOFHAC's efforts and programs which are intended to bring about equality of opportunity to minorities and others in housing; (b) forcing GNOFHAC to devote scarce resources to identify and counteract defendant's unlawful housing practices; and (c) interference with the right of GNOFHAC's constituents to enjoy the benefit of living in an integrated community.

Multi-Family Zoning Ordinance

27. On November 1, 2005, by a 5-2 vote, St. Bernard passed an ordinance "establish[ing] a moratorium on the re-establishment and development of any multi-family dwellings in St. Bernard Parish" for 12 months. The ordinance prohibits the reconstruction and rehabilitation of preexisting multi-family buildings without case-by-case approval of the St. Bernard Parish Council. This ordinance significantly limits the number of multi-family units available for rent and has the effect of denying housing in rental units which are disproportionately occupied by minorities and are greatly needed by

the disproportionately minority population displaced by the hurricanes. The ordinance was passed with the intent and has the effect of denying and making unavailable rental housing to minorities who have greater need than whites for such units.

28. Moreover, the Parish Council has enforced this ordinance in a discriminatory manner so as to deny permits needed to lease any multi-family units in Village Square, a predominantly minority area of the Parish, while issuing such permits in other, predominantly white, areas of the Parish.

29. In the ordinance, the Council claimed that such a moratorium was required “to avoid placement irregularities, over density problems and quality of life issues.” Yet it provided no explanation why rehabilitation of existing buildings, which were subject to the density and placement requirements of the pre-existing zoning ordinance, would require special consideration after the hurricanes.

30. Evidence of the Parish Council’s intent to eliminate rentals to minorities in Village Square predates the hurricane. Members of the Parish Council, including Executive Counsel Alan Abadie, have for years considered displacing these heavily minority residents by expropriating this land. In February 2005, the Parish Council created a committee to explore ways to expropriate Village Square, bulldoze the buildings and expel residents, and construct a gated senior citizens’ community in its place.

31. The hurricane provided an alternative way to get rid of the area. On information and belief, Village Square suffered less damage than other, predominantly white areas in the Parish. Yet, in December of 2005, shortly after the multi-family moratorium was put in place, it became evident that the Parish Council had decided not to permit rebuilding of housing in Village Square. At that time, Mr. Rodrigue called Judy Darby Hoffmeister, one of St. Bernard’s councilmembers, about his four-plex. She told

him not to invest any money into it because the Council was going to “mitigate” the Village Square area. Upon information and belief, the Parish’s mitigation efforts would be limited to acquiring the property in Village Square, clearing it of all structures, and converting it to green space. Mr. Rodrigue was also told by the Council that the reason his application for the rehabilitation of his multi-family dwelling had not been granted was because the Council was planning to mitigate Village Square.

32. On September 5, 2006, the St. Bernard Parish Council formally designated Village Square as a mitigation area, effectively ensuring that multi-family housing that was disproportionately occupied by African-American tenants before the hurricane would not be rebuilt.

33. Both the multi-family moratorium’s discriminatory application in Village Square and the decision to “mitigate” the area where a large number of the Parish’s minorities previously resided, demonstrate the moratorium’s intent and effect of denying and making unavailable rental housing desperately needed by minorities in St. Bernard Parish.

Harm Caused by Multi-Family Ordinance

34. By adding additional restrictions to rehabilitating and re-occupying multi-family dwellings, denying permits to rebuild in disproportionately minority neighborhoods, and limiting the number of multi-family units available, the multi-family ordinance denies and makes unavailable rental units disproportionately needed by minorities. Moreover, in its enforcement of this ordinance the Council has systematically ensured that dwellings located in disproportionately minority neighborhoods will not be rehabilitated and reoccupied.

35. Wallace Rodrigue has been harmed by this ordinance because it has been applied in a manner that has prevented him from re-renting units in the four-plex located at 428 DeLaRonde Drive, a property he has owned since approximately 1998, and which is property is located in Village Square, where most of the minorities in the Parish reside. On January 17, 2006, Mr. Rodrigue appeared before the St. Bernard Parish Council and applied for a permit to repair and renovate the four-plex. The Council refused to grant his request and, without explanation, referred his application to the Planning Commission. On January 24, he met with the planning commission and provided a packet of material, including a survey of the property, hand-drawn details of the property, a picture of the building, and a picture of the new electrical service. Having received no definitive response from the Planning Commission, Mr. Rodrigue re-appeared before the Parish Council several times to press his case. Finally, on June 19, the Planning Commission submitted a letter to the Clerk of the Council noting that due to the potential for redevelopment in the area, the Commission recommended that the permit be declined. On September 19, the Parish formally denied Mr. Rodrigue's application for a permit to rehabilitate the multi-family dwelling. The cited reason for the denial was the moratorium adopted by the St. Bernard Parish Council. Mr. Rodrigue also was told that his application was denied because the Parish was planning to "mitigate" the Village Square area.

36. Mr. Rodrigue's inability to rent their multi-family unit illustrates how the multi-family moratorium denies and makes unavailable housing needed by minorities and perpetuates segregation. Prior to the ordinance, minorities made up at least half of the renters in Mr. Rodrigue's four-plex. Currently, the four-plex remains vacant despite the great need of minorities in the Parish for rental housing.

37. Mr. Rodrigue's experience also demonstrates the Parish Council's discriminatory enforcement of the November ordinance so as to deny permits needed to lease any multi-family units in Village Square — the predominantly minority area of the Parish where Mr. Rodrigue's four-plex is located.

38. GNOFHAC has expended its time and resources in monitoring and addressing the discriminatory zoning ordinances passed by the St. Bernard Parish Council. Further, as a result of this ordinance, GNOFHAC will continue to have its resources diverted in the future, and its mission further frustrated, because of the need to continue to seek non-discriminatory and desegregative measures in St. Bernard and the need to continue to educate the public about the discriminatory and illegal nature of ordinances that have the intent and effect of excluding minorities. Had GNOFHAC not been required by defendant's discriminatory zoning ordinances to divert its resources and utilize continuing resources to remedy the effects of these discriminatory actions, it would have devoted these resources to its continuing efforts to eradicate other forms of housing discrimination.

Causes of Action

FIRST CAUSE OF ACTION VIOLATION OF THE FAIR HOUSING ACT

39. Plaintiffs repeat the allegations of paragraphs 1 through 38 as if fully set forth herein.

40. The ordinances described in these paragraphs make unavailable and deny persons rental housing because of race and national origin in violation the Fair Housing Act, 42 U.S.C. § 3604(a).

**SECOND CAUSE OF ACTION
VIOLATION OF 42 U.S.C. § 1981**

41. Plaintiffs repeat the allegations of paragraphs 1 through 38 as if fully set forth herein.

42. The ordinances described in these paragraphs deny minority citizens the same rights as are enjoyed by white residents to make and enforce contracts in violation of 42 U.S.C. § 1981.

**THIRD CAUSE OF ACTION
VIOLATION OF 42 U.S.C. § 1982**

43. Plaintiffs repeat the allegations of paragraphs 1 through 38 as if fully set forth herein.

44. The ordinances described in these paragraphs deny minority citizens the same rights as are enjoyed by white residents to lease, hold and otherwise enjoy real property in violation of 42 U.S.C. § 1982.

**FOURTH CAUSE OF ACTION
VIOLATION OF 42 U.S.C. § 1983 AND THE EQUAL PROTECTION CLAUSE
OF THE FOURTEENTH AMENDMENT TO THE U.S. CONSTITUTION**

45. Plaintiffs repeat the allegations of paragraphs 1 through 38 as if fully set forth herein.

46. The ordinances described in these paragraphs deny minority citizens equal protection of the law by discriminating on the basis of race and national origin in the leasing of real property in violation 42 U.S.C. § 1983.

WHEREFORE, plaintiffs pray:

(1) That the Court declare the actions of the defendant complained of herein to be in violation of the Fair Housing Act of 1968, as amended, 42 U.S.C. § 3601 *et seq.*;

(2) That the Court declare the actions of the defendant to be in violation of 42 U.S.C. §§ 1981, 1982 and 1983 and the Fourteenth Amendment to the U.S. Constitution;

(3) That this Court issue a permanent injunction restraining the defendant, its agents, employees, representatives, and/or any other person acting directly or indirectly with it from enforcing the ordinances;

(4) That plaintiffs be awarded actual compensatory damages to be determined by a jury;

(5) That plaintiffs be awarded their costs and reasonable attorney's fees in this action; and

(6) That plaintiffs be awarded such other and further relief as the Court deems just and proper.

Dated: November 2, 2006

Respectfully submitted,

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Counsel for Plaintiff

* application for admission *pro hac vice* to be submitted

CERTIFICATE OF SERVICE

I hereby certify that on the 2nd day of November 2006, the foregoing Amended Complaint for Injunctive Relief, Declaratory Judgment, and Remedial Relief was served via U.S. Mail on the following:

Alan Abadie
Executive Counsel
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M. Lucia Blacksher