

1 Ellen Johnson
2 Legal Aid Services of Oregon
3 230 NE 2nd Ave, Suite A
4 Hillsboro, OR 97124
5 Telephone: 503.648.7163
6 Fax: 503.648-0513
7 Email: Ellen.Johnson@lasoregon.org
8 Bar number: 80-278

9 Additional counsel listed
10 on signature page.

11 Attorneys for Plaintiff-Intervenor

12 IN THE UNITED STATES DISTRICT COURT
13 FOR THE DISTRICT OF OREGON

14 UNITED STATES OF AMERICA,

15 Plaintiff,

16 and

17 TIFFANIE ALVERA

18 Plaintiff-Intervenor,

19 vs.

20 THE C.B.M. GROUP, INC., a California
21 Corporation, CREEKSIDE VILLAGE
22 APARTMENTS, a Limited Partnership,
23 EDWARD MACKAY AND DORIAN
24 MACKAY, General Partners, KAREN
25 MOCK, INEZ CORENEVSKY,

26 Defendants

Civil No. 01-857-PA

COMPLAINT IN INTERVENTION
CIVIL RIGHTS [Housing Discrimination]
(42 U.S.C. §§3601 *et seq.*)
DEMAND FOR JURY TRIAL

PRELIMINARY STATEMENT

Page 1 - COMPLAINT IN INTERVENTION CIVIL RIGHTS [Housing Discrimination]
(42 U.S.C. §§3601 *et seq.*) DEMAND FOR JURY TRIAL

LEGAL AID SERVICES OF OREGON
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230 NORTHEAST SECOND, SUITE A
(503) 648-7163

1 California corporation registered in Oregon, through its Property Management Division, was the
2 property management company responsible for managing the Creekside Village Apartments located
3 in Seaside, Oregon.

4 8. At all times relevant to this action, defendant Karen Mock was the resident manager of the
5 Creekside Village apartments and an employee of Defendant C.B.M.

6 9. At all times relevant to this action, defendant Inez Corenevsky was the Supervising Property
7 Manager for the Creekside Village Apartments and an employee of Defendant C.B.M. Defendant
8 Corenevsky supervised Defendant Karen Mock.

9 10. At all times relevant to this action, defendant Creekside Village Apartments ("C.V.A."), a
10 California Limited partnership, was the owner of the Creekside Village Apartments, an apartment
11 complex located in Seaside, Oregon.

12 11. At all times relevant to this action, defendants Edward MacKay and Dorian MacKay were
13 the General Partners of the C.V.A.

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PROCEDURAL HISTORY

12. On or about October 22, 1999, plaintiff-intervenor Tiffanie Alvera filed a timely complaint
with the United States Department of Housing and Urban Development ("HUD"). In her complaint
before HUD, she alleged that the defendants had discriminated against her by making a rental
apartment unavailable to her and applying different terms, conditions and privileges to her tenancy
because of her sex, in violation of the Fair Housing Act.

1 13. The Secretary of HUD ("Secretary") conducted and completed an investigation of this
2 complaint, attempted conciliation without success, and prepared a final investigative report.

3 14. Based on the information gathered in this investigation, the Secretary determined that
4 reasonable cause existed to believe that discriminatory housing practices occurred and issued a
5 Determination of Reasonable Cause.

6 15. As a result of that determination, on or about April 16, 2001, the Secretary, issued a Charge
7 of Discrimination charging the defendants with engaging in a discriminatory housing practice in
8 violation of the Fair Housing Act and thereby causing actual injury to Ms. Alvera.

9 16. On or about May 8, 2001, Ms. Alvera, through counsel, made a timely election to have the
10 charge resolved in a federal civil action.

11 17. Following this election, the Attorney General filed a civil action on behalf of Ms. Alvera on
12 June 8, 2001.

13 18. As an aggrieved person who has elected that the Attorney General commence and maintain
14 a civil action, Ms. Alvera is entitled to intervene in this action as a matter of right.

16 NATURE OF THE COMPLAINT

17 19. Creekside Village Apartments is located at 1935 Spruce Drive, in Seaside, Oregon.

18 20. Creekside Village Apartments contains about forty (40) apartment units which are
19 residences for occupancy by one or more families rented to members of the general public.
20 Accordingly, Creekside Village Apartments is a "dwelling" within the meaning of 42 U.S.C.
21 §3602(b).

22 21. During the relevant period in which the alleged discriminatory acts occurred, Creekside
23 Village Apartments was funded by Rural Development (formerly Farmer's Home
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1 Administration) under United States Department of Agriculture ("U.S.D.A."). As a result,
2 Creekside Village Apartments is subject to additional rules and regulations, promulgated by
3 Rural Development and U.S.D.A., including, without limitation, 7 C.F.R. §1944.553 and 7
4 C.F.R. Part 1930, Exhibit B to Subpart C.

5 22. At all times relevant to this action, Defendants established and implemented rental
6 policies, rules, and practices for the Creekside Village Apartments.

7 23. In November 1998, Ms. Alvera and her then-husband, Humberto Mota, moved into
8 Apartment 21, a two-bedroom unit, in the Creekside Village Apartments.

9 24. From the time Ms. Alvera and her then husband moved into their apartment until
10 August 1999, neither of them received any warnings or complaints about their tenancy from
11 defendants.

12 25. On or about the morning of August 2, 1999, Ms. Alvera's then-husband, Mr. Mota,
13 physically assaulted her in their apartment in the Creekside Village Apartments.

14 26. On or about August 2, 1999, following the physical assault, Ms. Alvera went to the local
15 hospital and was treated for physical injuries.

16 27. On or about August 2, 1999, following her release from the hospital, Ms. Alvera sought
17 and obtained from the Clatsop County Circuit Court a temporary restraining order against Mr.
18 Mota. The order required Mr. Mota to move away from and not return to their residence at the
19 Creekside Village Apartments and also prohibited him from contacting Ms. Alvera or coming
20 within 100 feet of her.

21 28. On or about August 2, 1999, following the incident of domestic violence referenced in
22 paragraph 25, the police arrested and jailed Mr. Mota. Mr. Mota was charged and eventually
23 convicted of assault IV. Ms. Alvera has not had any contact with Mr. Mota since his arrest.

1 29. On or about August 2, 1999, Ms. Alvera provided defendant Karen Mock with a copy of
2 the temporary restraining order, referenced in paragraph 27, that, among other things, barred Mr.
3 Mota from the Creekside Village Apartments.

4 30. On or about August 2, 1999, defendant Karen Mock told Ms. Alvera that defendant Inez
5 Corenevesky had instructed her to serve Ms. Alvera with a 24-hour notice to vacate her
6 residence at Creekside Village Apartments because of the incident of domestic violence
7 referenced in paragraph 25.

8 31. On August 4, 1999, Ms. Alvera was served with a 24-hour notice, signed by defendant
9 Karen Mock as agent for defendants C.V.A. and C.B.M., terminating her tenancy at the
10 Creekside Village Apartments, effective on midnight of August 5, 1999. The notice stated,
11 "Pursuant to Oregon Landlord/Tenant law, this notice is to inform you that your occupancy will
12 terminate because: You, someone in your control, or your pet, has seriously threatened
13 immediately to inflict personal injury, or has inflicted personal injury upon the landlord or other
14 tenants." The notice further stated, "Specific details: On August 2, 1999, at approximately 6:00
15 a.m., Humberto Mota reportedly physically attacked Tiffani[e] Alvera in their apartment.
16 Subsequently, Police were called in."

17 32. Ms. Alvera has never inflicted, threatened to inflict, or been accused of inflicting or
18 threatening to inflict personal injury upon the landlord or any tenant of the Creekside Village
19 Apartments.

20 33. Ms. Alvera has never had a pet that has inflicted or threatened to inflict personal injury
21 upon the landlord or any tenant of the Creekside Village Apartments.

22 34. At all times relevant to this action, Mr. Moto was not a person "in [the] control" of Ms.
23 Alvera.

1 35. Mr. Moto has never inflicted or threatened to inflict personal injury upon the landlord or
2 any tenant of the Creekside Village Apartments, other than Ms. Alvera

3 36. Defendants terminated Ms. Alvera's tenancy at Creekside Village Apartments only because
4 she had been the victim of domestic violence and because of her sex.

5 37. Prior to issuing the termination of tenancy notice referenced in paragraph 31, defendants
6 neither issued a warning notice to Ms. Alvera nor sought review from Rural Development of their
7 proposed action to terminate Ms. Alvera's tenancy.

8 38. On August 4, 1999, Ms. Alvera submitted an application to rent a one-bedroom apartment
9 at the Creekside Village Apartments.

10 39. On at least two occasions, Ms. Alvera tendered and defendant C.B.M. refused to accept
11 payment of rent for apartment 21 for the months of August and September 1999.

12 40. On or about August 11, 1999, defendants denied Ms. Alvera's rental application for a one-
13 bedroom apartment.

14 41. On or about October 9, 1999, Ms. Alvera submitted a second application to rent a one-
15 bedroom apartment at the Creekside Village Apartments.

16 42. On October 26, 1999, Ms. Alvera signed a lease agreement, effective November 1, 1999,
17 for Apartment 18, a one-bedroom unit, at the Creekside Village Apartments.

18 43. Apartment 18 at the Creekside Village Apartments had been vacant since at least August
19 1, 1999.

20 44. Defendants refused to rent an apartment to Ms. Alvera from August 4, 1999 until
21 November 1, 1999 because she had been a victim of domestic violence and because of her sex.

22 45. In a letter dated October 26, 1999, Defendants' attorney wrote to Ms. Alvera, in pertinent
23 part, "As you know, there was a recent incident of violence that took place between you and
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1 another member of your household. . . . This letter is to advise you that if there is any type of
2 recurrence of the past events described above, that [sic] Creekside would have no other
3 alternative but to cause an eviction to take place.”

4 46. Ms. Alvera’s lease agreements at the Creekside Village Apartments provided, in pertinent
5 part, that “[t]he Management shall not discriminate against the Tenant in the provision of services,
6 or in any other manner, on the grounds of . . . sex” The lease agreements did not state that
7 the landlord or property management may evict the tenant for being the victim of domestic violence.

8 47. Defendants’ alleged policy of terminating the tenancy of or refusing to rent an apartment to
9 an innocent victim of domestic violence is not justified by any business necessity.

10 48. At no time since November 1998 did defendants receive any complaints from any other
11 residents of the Creekside Village Apartments about Ms. Alvera or Mr. Mota. In particular,
12 Defendants did not receive any complaints concerning the August 2, 1999 incident of domestic
13 violence referenced in paragraph 23.

14 49. Other than the actions described in paragraphs 31 and 45, at no time since November 1998
15 did defendants issue any warnings or notices to Ms. Alvera or Mr. Mota for any alleged violations
16 of any rules concerning the Creekside Village Apartments or for any other reason.

17 50. In the United States and in Oregon, the overwhelming majority of victims of domestic
18 violence are women, and women are much more likely than men to be the victims of domestic
19 violence.

20 51. At all times relevant to this action, defendants were or should have been aware that the vast
21 majority of victims of domestic violence are women and that women are much more likely than men
22 to be the victims of domestic violence.

23 52. At all times relevant to this action, defendants were or should have been aware that Rural
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1 Development regulations provide that, although a landlord or project manager may terminate the
2 tenancy of a tenant whose "conduct disrupts the livability of the project by being a direct threat to
3 the health or safety of any person, or the right of any tenant . . . to the quiet enjoyment of the
4 premises . . . ," 7 C.F.R. Part 1930, Exhibit B to subpart C, Ch. XIV(A)(2)(c)(3), that rule does
5 not apply "to innocent members of the tenant's household who are not engaged in the illegal
6 activity, nor are responsible for control of another household member or guest." *Id.* Ch. XIV
7 (A)(2)(c)(3). Rather, those regulations express "the intent that such innocent persons can remain
8 in the dwelling unit if an otherwise eligible household remains or can be formed." *Id.*

9 53. At all times relevant to this action, there was no rule, policy, or practice at Creekside Village
10 Apartments to refuse to rent to, or to terminate or otherwise adversely affect the tenancy of, victims
11 of violence committed by strangers or by persons who are not members of the victims' households.

12 54. On March 16, 1999, defendants served a 24-hour notice of termination of tenancy on Chris
13 Fridley, a former tenant of the Creekside Village Apartments, for allegedly threatening other tenants
14 with a baseball bat on March 5, 1999. defendants served no notice of termination of tenancy on any
15 of the tenants whom Mr. Fridley allegedly threatened in that incident.

16 17 LEGAL CLAIMS

18 First Claim for Relief

19 (Violation of the Fair Housing Act, 42 U.S.C. §§ 3604(a) and (b)).

20 55. Plaintiff-intervenor repeats and realleges the allegations in paragraphs 1 through 54 of this
21 complaint.

22 56. By terminating Ms. Alvera's tenancy in Apartment 21 of the Creekside Village Apartments
23 because she had been the victim of domestic violence, defendants intentionally discriminated against
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1 Ms. Alvera in the opportunity to rent a dwelling and in the terms, conditions and privileges of the
2 rental, on the basis of her sex, in violation of the Fair Housing Act, 42 U.S.C. §§ 3604(a) and (b).

3 57. Defendants engaged in such discriminatory conduct intentionally, willfully, and in disregard
4 of the rights of Ms. Alvera.

5 58. Ms. Alvera has suffered injury as a result of Defendants' illegal conduct.

6 Second Claim for Relief

7 (Violation of the Fair Housing Act, 42 U.S.C. §§ 3604(a) and (b))

8 59. Plaintiff-intervenor repeats and realleges the allegations in paragraphs 1 through 54 of this
9 complaint.

10 60. By refusing to rent, or otherwise making unavailable or denying, a one-bedroom apartment
11 to Ms. Alvera from August 4, 1999 to November 1, 1999, after she made a bona fide offer, because
12 she had been the victim of domestic violence, defendants intentionally discriminated against Ms.
13 Alvera in the rental of a dwelling and in the terms, conditions and privileges of the rental, on the
14 basis of her sex, in violation of the Fair Housing Act, 42 U.S.C. §§ 3604(a) and (b).

15 61. Defendants engaged in such discriminatory conduct intentionally, willfully, and in disregard
16 of the rights of Ms. Alvera.

17 62. Ms. Alvera has suffered injury as a result of Defendants' illegal conduct.

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19 Third Claim for Relief

20 (Violation of the Fair Housing Act, 42 U.S.C. §§ 3604(a) and (b))

21 63. Plaintiff-intervenor repeats and realleges the allegations in paragraphs 1 through 54 of this
22 complaint.

1 64. By threatening future eviction proceedings against Ms. Alvera and by imposing an adverse
2 term or condition of tenancy on Ms. Alvera in connection with her rental of Apartment 21 because
3 she was the victim of domestic violence, defendants intentionally discriminated against her in the
4 terms, conditions, or privileges of the rental of a dwelling because of her sex, in violation of the Fair
5 Housing Act, 42 U.S.C. §§ 3604(a) and (b).

6 65. Defendants engaged in such discriminatory conduct intentionally, willfully, and in disregard
7 of the rights of Plaintiff-intervenor.

8 66. Ms. Alvera has suffered injury as a result of Defendants' illegal conduct.

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11 Fourth Claim for Relief

12 (Violation of the Fair Housing Act, 42 U.S.C. §§ 3604(a) and (b))

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14 67. Plaintiff-intervenor repeats and realleges the allegations in paragraphs 1 through 54 of this
15 complaint.

16 68. By adopting a policy of terminating the tenancy of and refusing to rent apartments to victims
17 of domestic violence, the vast majority of whom are women, after an incident of domestic violence
18 at the Creekside Village Apartments, Defendants engaged in a practice that has a disparate impact
19 on women and therefore discriminates on the basis of sex in violation of the Fair Housing Act, 42
20 U.S.C. §§ 3604 (a) and (b).

21 69. Defendants engaged in such discriminatory conduct intentionally, willfully, and in disregard
22 of the rights of Ms. Alvera and persons similarly situated.

1 70. Because defendants applied that policy to Ms. Alvera; she was injured by defendants'
2 discriminatory conduct.

3 Fifth Claim for Relief

4 (Violation of the Fair Housing Act, 42 U.S.C. §§ 3604(a) and (b))

5 71. Plaintiff-intervenor repeats and realleges the allegations in paragraphs 1 through 54 of this
6 complaint.

7 72. By adopting a policy allowing victims of violence at the hands of strangers or persons
8 who are not members of the victims' households to rent or continue to rent apartments at the
9 Creekside Village Apartments but not allowing victims of domestic violence, the vast majority of
10 whom are women, to rent or continue to rent such apartments, Defendants engaged in a practice
11 that has a disparate impact on women and therefore discriminates on the basis of sex in violation
12 of the Fair Housing Act, 42 U.S.C. §§ 3604(a) and (b).

13 73. Defendants engaged in such discriminatory conduct intentionally, willfully, and in
14 disregard of the rights of Ms. Alvera and persons similarly situated.

15 74. Because Defendants applied that policy to Ms. Alvera, she was injured by Defendants'
16 discriminatory conduct.

17 Sixth Claim for Relief

18 (Violation of O.R.S. 659.033(1) and (2))

19 75. Plaintiff-intervenor repeats and realleges the allegations in paragraphs 1 through 54 and
20 legal theories in claims First through Fifth.

21 76. By engaging in the conduct described in paragraphs 1 through 54 of this complaint,
22 defendants discriminated against Ms. Alvera in the renting of real property because of her sex in
23 violation of ORS 659.033(1) and (2).

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25 Page 12 - COMPLAINT IN INTERVENTION CIVIL RIGHTS [Housing Discrimination
26 (42 U.S.C. §§3601 *et seq.*) DEMAND FOR JURY TRIAL

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(503) 648-7163

1 77. Defendants engaged in such discriminatory conduct intentionally, willfully, and in
2 disregard of the rights of Ms. Alvera.

3 78. Ms. Alvera has suffered injury as a result of Defendants' illegal conduct.

4 Seventh Claim for Relief

5 (Intentional Infliction of Emotional Distress)

6 79. Plaintiff-intervenor repeats and realleges the allegations in paragraphs 1 through 54 of this
7 complaint.

8 80. Defendants' conduct in discriminating against Ms. Alvera and refusing to make available to
9 her an apartment or otherwise discriminating against her because she was a victim of domestic
10 violence and because of her sex was extreme, outrageous, and egregious.

11 81. Defendants acted willfully and intentionally or recklessly to cause Ms. Alvera extreme
12 emotional distress.

13 82. As a result of defendants' conduct, Ms. Alvera suffered extreme emotional distress and
14 injury.

15 WHEREFORE, plaintiff-intervenor requests that this Court grant the following relief:

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- 17 1. Declare that the discriminatory practices of the defendants, as set forth above, violate the
18 Fair Housing Act, as amended, 42 U.S.C. §§ 3601-3619, and ORS 659;
 - 19 2. Enjoin defendants, their agents, employees, and successors, and all other persons in active
20 concert or participation with any of them, from continuing to evict tenants because they are
21 victims of domestic violence and from discriminating on the basis of sex against any person in
22 any aspect of the rental of a dwelling;
 - 23 3. Award plaintiff-intervenor actual damages for the injuries caused by defendants'
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1 discriminatory actions, pursuant to 42 U.S.C. §§ 3612(o)(3) and 3613(c), ORS 659, and Oregon
2 common law;

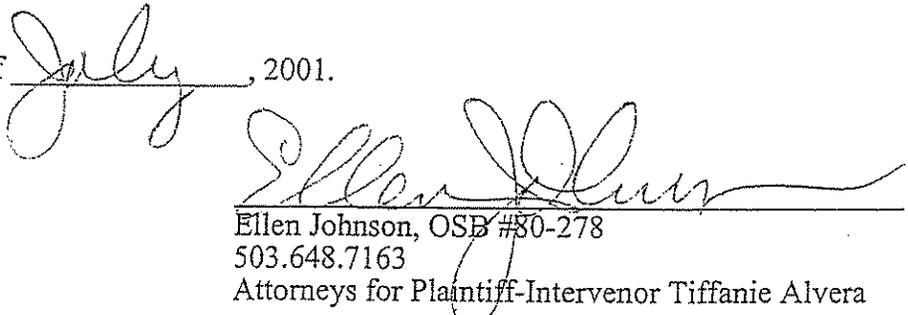
3 4. Award punitive damages to plaintiff-intervenor pursuant to 42 U.S.C. §§ 3612(o)(3) and
4 3613(c);

5 5. Award plaintiff-intervenor reasonable costs and attorney fees. Attorneys for the Oregon
6 Law Center, Legal Aid Services of Oregon, American Civil Liberties Union Foundation, and
7 NOW Legal Defense and Education Fund, assert plaintiff-intervenor's right to recover reasonable
8 costs pursuant to 42 U.S.C. §§ 3612(o)(3) and 3623(c)(2);

9 6. Attorneys for the Oregon Law Center, American Civil Liberties Union Foundation, and
10 NOW Legal Defense and Education Fund, assert plaintiff-intervenor's right to recover reasonable
11 attorneys' fees pursuant to 42 U.S.C. §§ 3612(o)(3) and 3623(c)(2). Legal Aid Services of
12 Oregon does not seek or claim any portion of the attorneys' fees and no part of any award of
13 attorneys' fees should be payable to, give, or retained by Legal Aid Services of Oregon or its
14 employees; and

15 7. Grant such additional relief as may be just and proper.

16 DATED this 10 day of July, 2001.

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Ellen Johnson, OSB #80-278
503.648.7163
Attorneys for Plaintiff-Intervenor Tiffanie Alvera

22 Micky Ryan
23 Oregon Law Center
24 813 SW Alder St., Suite 500
25 Portland, OR 97205

Leonora M. Lapidus NYB #LL-6592
American Civil Liberties Union
Foundation
125 Broad Street

26 Page 14 - COMPLAINT IN INTERVENTION CIVIL RIGHTS [Housing Discrimination
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LEGAL AID SERVICES OF OREGON
HILLSBORO REGIONAL OFFICE
230 NORTHEAST SECOND, SUITE A
(503) 648-7163

1 Telephone: 503.295.2760
2 Fax: 503.295-0676
3 Email: mrvanolc@yahoo.com
4 Bar Number: 79370

New York, NY 10004
Telephone: 212.549.2668
Fax: 212.549.2652
Email: llapidus@aclu.org

5 Martha Davis NYB # MD-7630
6 Geoffrey Boehm NYB # GB-7956
7 Wendy Weiser NYB # WW-8580
8 NOW Legal Defense and Education Fund
9 395 Hudson Street
10 New York, NY 10014
11 Telephone: 212.925.6635
12 Fax: 212.226.1065
13 Email: mdavis@nowldef.org
14 gboehm@nowldef.org
15 wweiser@nowldef.org
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