

JUN 17 2005

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

at 3 o'clock and 5 min M
SUE BEITIA, CLERK

MARA AMONE INDIVIDUALLY, AND ON)
BEHALF OF ALL PERSONS SIMILARLY)
SITUATED,)

Plaintiffs,)

vs.)

STEPHANIE AVEIRO, IN HER)
OFFICIAL CAPACITY AS THE)
EXECUTIVE DIRECTOR OF THE)
HOUSING AND COMMUNITY)
DEVELOPMENT CORPORATION OF)
HAWAII, ET AL.,)

Defendants.)

Civ. No. 04-00508 (ACK/BMK)

ORDER GRANTING PERMANENT INJUNCTION

For reasons as more fully set forth in its Order granting partial summary judgment filed May 31, 2005, the Court granted Plaintiffs' motion for partial summary judgment as to Counts II, IV, V, and VI of the Complaint and found that liability was established under Section 504 of the Rehabilitation Act, the Americans with Disabilities Act, the Fair Housing Act, and through section 1983 for violations of the United States Housing Act. The Court found that Defendants had failed to provide adjustments to the utility allowances of disabled public housing residents whose special needs arising from their disabilities require them to consume utilities in excess of the amount provided for in the standard public housing utility allowances.

The Court further found that there is a threat of continuing violations because appropriate regulations have not yet been adopted and Defendants have not provided sufficient proof that allowances are being provided when appropriate or that new residents are being informed of the availability of utility allowances. The Court accordingly enters a permanent injunction in favor of Plaintiff Mara Amone, individually, and on behalf of all persons similarly situated, and against Defendants Housing and Community Development Corporation of Hawaii ("HCDCH") and Stephanie Aveiro, in her official capacity as the Executive Director of HCDCH, as follows:

1. Defendants are hereby ordered by way of permanent injunction to comply with 24 C.F.R. § 965.508 by fully adopting criteria and procedures for providing adjustments to the utility allowances of disabled public housing residents whose special needs arising from their disabilities require them to consume utilities in excess of the amount provided for in the standard public housing utility allowances.

2. Defendants are hereby ordered by way of permanent injunction to comply with 24 C.F.R. § 965.508 by providing notice to current and incoming tenants of public housing that they may be entitled to a utility allowance adjustment, based on disability, and the criteria and procedures for obtaining such adjustments.

3. Defendants are hereby ordered by way of permanent

injunction to provide adjustments to the utility allowances of disabled public housing residents as required by 24 C.F.R. § 965.508, the United States Housing Act, Section 504 of the Rehabilitation Act, the Americans with Disabilities Act, and the Fair Housing Act.

4. Pursuant to Federal Rule of Civil Procedure 65(d), this injunction shall bind Defendants, their officers, agents, servants, employees, successor, and attorneys, and those persons in active concert or participation with them who receive notice of the Order by personal service or otherwise.

IT IS SO ORDERED.

DATED: JUN 17 2005 , Honolulu, Hawaii.


UNITED STATES DISTRICT JUDGE

Order Granting Permanent Injunction: MARA AMONE INDIVIDUALLY, AND ON BEHALF OF ALL PERSONS SIMILARLY SITUATED v. STEPHANIE AVEIRO, IN HER OFFICIAL CAPACITY AS THE EXECUTIVE DIRECTOR OF THE HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF HAWAII, ET AL., Civ. No. 04-00508 (ACK/BMK).