

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
SPRINGFIELD DIVISION

MASSACHUSETTS FAIR HOUSING
CENTER,

HOUSING WORKS, INC.,

Plaintiffs,

v.

U.S. DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT,

MATT AMMON, Acting Secretary of the U.S.
Department of Housing and Urban
Development,¹

Defendants.

No. 3:20-cv-11765-MGM

The Hon. Mark G. Mastroianni

**DEFENDANTS' UNOPPOSED MOTION TO
STAY PROCEEDINGS**

In accordance with L.R. 7.1, Defendants move unopposed for a stay of proceedings in this case. In support of this motion, Defendants state as follows:

1. Plaintiffs served their Summons and Complaint on the U.S. Attorney for the District of Massachusetts on October 1, 2020. *See* Summons & Compl., ECF No. 1. Defendants' current deadline to respond to Plaintiffs' Complaint is February 16, 2021. *See* Order, ECF No. 38.

2. Plaintiffs challenge Defendants' issuance of a final rule and have sought a stay of the effective date of that rule pursuant to 5 U.S.C. § 705. *See* U.S. Dep't of Hous. & Urban Devel. ("HUD"), HUD's Implementation of the Fair Housing Act's Disparate Impact Standard ("Final Rule"), 85 Fed. Reg. 60288 (Sept. 24, 2020) (the "2020 Rule"); Pls.' Mot. for Prelim. Inj. Under 5 U.S.C. § 705 to Postpone Effective Date of HUD's Final Rule ("Pls.' Stay Mot."); ECF No. 11.

3. On October 25, 2020, this Court issued an order granting Plaintiffs' Stay Motion and

¹ In accordance with Federal Rule of Civil Procedure 25(d), Matt Ammon is substituted in his official capacity as Acting Secretary of Housing and Urban Development for his predecessor.

staying the effective date of the Final Rule. *See* Order, ECF No. 29. On December 23, 2020, Defendants filed a notice of appeal of this Court's Order. *See* Defs.' Not. of Appeal, ECF No. 33. On February 9, 2021, Defendants filed a motion, with Plaintiffs' consent, to voluntarily dismiss their appeal.

4. On January 26, 2021, President Biden issued a Presidential Memorandum that instructed that HUD

shall also, as soon as practicable, take all steps necessary to examine the effects of the September 24, 2020, rule entitled "HUD's Implementation of the Fair Housing Act's Disparate Impact Standard" (codified at part 100 of title 24, Code of Federal Regulations), including the effect that amending the February 15, 2013, rule entitled "Implementation of the Fair Housing Act's Discriminatory Effects Standard" has had on HUD's statutory duty to ensure compliance with the Fair Housing Act. Based on that examination, the Secretary shall take any necessary steps, as appropriate and consistent with applicable law, to implement the Fair Housing Act's requirements that HUD administer its programs in a manner that affirmatively furthers fair housing and HUD's overall duty to administer the Act (42 U.S.C. 3608(a)) including by preventing practices with an unjustified discriminatory effect.

Redressing Our Nation's and the Federal Government's History of Discriminatory Housing Practices and Policies, 86 FR 7487 (published Jan. 29, 2021). HUD is already actively considering its path forward in implementing the Presidential directive.

5. HUD requests a stay of proceedings in this case to provide additional time to complete its implementation of the Presidential directive. Counsel for the parties will confer at least once every thirty (30) days after entry of the requested stay for Defendants to provide an update of HUD's progress, and Defendants propose to file a status report with the court within fourteen (14) days of completion of the initial stage of HUD's administrative review process.

6. Plaintiffs will not be prejudiced by the proposed stay of proceedings in this case. This Court's § 705 stay remains in effect; the 2020 Rule never became effective; and Defendants have withdrawn their appeal. Further, Defendants commit that they will not seek to lift this Court's § 705 stay during the pendency of the requested stay of proceedings in this case.

7. Defendants conferred with Plaintiffs about this motion pursuant to L.R. 7.1(a)(2).

Plaintiffs do not oppose this motion, but reserve their right to move to lift the stay of these proceedings at any time.

CONCLUSION

For good cause shown herein, this Court should grant Defendants' unopposed motion to stay the proceedings in this case. A proposed order is attached.

Dated: February 11, 2021

Respectfully submitted,

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Deputy Assistant Attorney General

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Assistant Branch Director

s/ Vinita B. Andrapalliyal
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L.R. 7.1(a)(2) CERTIFICATE OF CONFERENCE

Pursuant to L.R. 7.1(a)(2), Defendants conferred with Plaintiffs about this motion. Plaintiffs do not oppose this motion.

s/ Vinita B. Andrapalliyal
VINITA B. ANDRAPALLIYAL

CERTIFICATE OF SERVICE

Pursuant to Fed. R. Civ. P. 5(b)(2)(E), Defendants effected service of this filing on all other parties to these actions by filing it with the Court's electronic filing system.

s/ Vinita B. Andrapalliyal
VINITA B. ANDRAPALLIYAL

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**[PROPOSED] ORDER GRANTING DEFENDANTS' UNOPPOSED
MOTION TO STAY PROCEEDINGS**

Before this Court is Defendants' unopposed motion to stay proceedings in this case. For good cause shown therein, Defendants' motion is GRANTED.

Defendants shall file a status report with this Court within fourteen (14) days of completion of the initial stage of HUD's administrative review process for implementing the Presidential Memorandum Redressing Our Nation's and the Federal Government's History of Discriminatory Housing Practices and Policies, 86 FR 7487 (published Jan. 29, 2021) as it relates to the rule Plaintiffs challenge in this case. Counsel for the parties shall meet and confer at least once every thirty (30) days after entry of the requested stay for Defendants to provide an update of HUD's progress with respect to the administrative review. The stay of proceedings may be lifted at any time by order of the Court or upon motion of the Plaintiffs.

So Ordered.

Dated: _____

MARK G. MASTROIANNI
UNITED STATES DISTRICT JUDGE