

July 13, 2007

Charles R. Fulbruge III
Clerk

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 07-30181
Summary Calendar

CLIFTON J BONVILLIAN III,

Plaintiff-Appellant,

VERSUS

LAWLER-WOOD HOUSING, LLC; LAWLER-WOOD, LLC; TIVOLI GP, LLC;
TIVOLI II, LLC.,

Defendants-Appellees.

Appeal from the United States District Court
for the Eastern District of Louisiana

(2:05-CV-5193)

Before DeMOSS, STEWART, and PRADO, Circuit Judges.

PER CURIAM:*

Appellant Clifton J. Bonvillian, III appeals the district court's order granting partial summary judgment to defendants-appellees, and dismissing his other claims without prejudice. Plaintiffs sought injunctive relief and damages against the defendants, who are the owners and operators of an apartment building, for alleged violations of the Fair Housing Act ("FHA"), 42 U.S.C. § 3604, and Louisiana law.

*Pursuant to 5th Cir. R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5th Cir. R. 47.5.4.

The substance of the Plaintiffs' claim under the FHA is that the defendants' decision to close the apartment building following Hurricane Katrina had a disparate impact on the disabled and elderly, and on racial minorities, because a majority of the residents apparently fall within these protected categories. See *Simms v. First Gibraltar Bank*, 83 F.3d 1546, 1555 (5th Cir. 1996) (holding that proof of a significant discriminatory effect is sufficient to establish a violation of the FHA).

However, as the district court noted, the building is closed to *all* potential tenants. In other words, members of classes protected under the FHA are being treated the same as everyone else. Therefore, all tenants were equally affected by the closure and there is no "significantly greater discriminatory impact on members of a protected class." *Id.*

For the foregoing reasons, and those stated by the district court in its Order and Reasons, we AFFIRM.

AFFIRMED.