

11-1507 MOUNT HOLLY, NJ V. MT. HOLLY GARDENS CITIZENS

DECISION BELOW: 658 F.3d 375

LOWER COURT CASE NUMBER: 11-1159

QUESTION PRESENTED:

The Fair Housing Act makes it unlawful "[t]o refuse to sell or rent after the making of a bona fide offer . . . or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, familial status, or national origin." 42 U.S.C. §3604(a). Reversing the District Court's decision, the Third Circuit found that the Respondents presented a prima facie case under the Fair Housing Act because Petitioners sought to redevelop a blighted housing development that was disproportionately occupied by low and moderate income minorities and because the redevelopment sought to replace the blighted housing with new market rate housing which was unaffordable to the current residents within the blighted area. The Third Circuit found that a prima facie case had been made despite the fact that there was no evidence of discriminatory intent and no segregative effect.

The following are the questions presented, which include subparts:

1. Are disparate impact claims cognizable under the Fair Housing Act?
2. If such claims are cognizable, should they be analyzed under the burden shifting approach used by three circuits, under the balancing test used by four circuits, under a hybrid approach used by two circuits, or by some other test?
 - (a) What is the correct test for determining whether a prima facie case of disparate impact has been made?
 - (b) How should statistical evidence be evaluated?
 - (c) What is the correct test for determining when a Defendant has satisfied its burden in a disparate impact case?

LIMITED TO QUESTION 1 PRESENTED BY THE PETITION.

CERT. GRANTED 6/17/2013