

On September 13, 2016, Plaintiff Loper filed a housing discrimination claim against Defendants HCVP and HUD.⁸

On January 5, 2017, Defendant HCVP filed a motion to dismiss.⁹ HCVP argues that it is non sui juris, meaning it lacks the capacity to be sued.¹⁰ HCVP also makes arguments on the merits.¹¹

I. Legal Standard

“To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to ‘state a claim for relief that is plausible on its face.’”¹² The plausibility requirement is not a “probability requirement.”¹³ The Plaintiff need not try to prove his case in the complaint. But there must be “more than a sheer possibility that the defendant has acted unlawfully.”¹⁴

[Federal Rule of Civil Procedure 8](#) provides the general pleading standard and only requires that a complaint “contain . . . a short plain statement of the claim showing that the pleader is entitled to relief.”¹⁵ In deciding a motion to dismiss under Rule 12(b)(6), “a court should assume the [] veracity” of “well-pleaded factual allegations.”¹⁶

II. Discussion

For a claim to succeed, defendant must have “[c]apacity to . . . be sued” under [Federal Rule of Civil Procedure 17\(b\)](#). Defendant HCVP’s capacity to be sued is “determined by the law of the state where th[is] court is located.”¹⁷

⁸ Doc. [1](#). Plaintiff amended her complaint. Doc. [3](#).

⁹ Doc. [8](#). Plaintiff opposes. Doc. [11](#).

¹⁰ Doc. [8](#) at 3-4.

¹¹ Defendant HCVP argues that Plaintiff cannot make out a discrimination or retaliation claim. Id. at 4, 5.

¹² [Ashcroft v. Iqbal](#), 556 U.S. 662, 678 (2009) (quoting [Bell Atlantic v. Twombly](#), 550 U.S. 544, 570 (2007)).

¹³ Id.

¹⁴ Id.

¹⁵ [Fed. R. Civ. P. 8\(a\)\(2\)](#).

¹⁶ Id.

¹⁷ [Fed. R. C. P. 17\(b\)\(3\)](#).

HCVP is a federal program under which “certain low-income individuals qualify to receive housing assistance vouchers that subsidize the cost of renting privately-owned housing units.”¹⁸ The Cuyahoga Metropolitan Housing Authority administers the program in Cuyahoga County.¹⁹

Under Ohio law, the Cuyahoga Metropolitan Housing Authority may “[s]ue and be sued.”²⁰ HCVP, however, is not a legal entity subject to suit. Accordingly, Defendant HCVP’s motion to dismiss is **GRANTED**.

Because the Court grants Defendant HCVP’s motion to dismiss on procedural grounds, the Court does not address HCVP’s merits arguments.

The Court also notes that HCVP’s dismissal from the case has no bearing on Plaintiff’s arguments on the merits.

IT IS SO ORDERED.

Dated: February 21, 2017

s/ James S. Gwin
JAMES S. GWIN
UNITED STATES DISTRICT JUDGE

¹⁸ [Velez v. Cuyahoga Metro. Hous. Auth.](#), 795 F.3d 578, 580 (6th Cir. 2015).

¹⁹ See [Velez](#), 795 F.3d at 581-82 (addressing Defendant Cuyahoga Metropolitan Housing Authority’s administration of the Housing Choice Voucher Program).

²⁰ [Ohio Rev. Code Ann. § 3735.31\(A\)](#) (giving a metropolitan housing authority the right to sue and be sued).