

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

UNITED STATES OF AMERICA,)
)
)
 Plaintiff,)
)
 v.)
)
 MURPHY DEVELOPMENT, LLC;)
 WESTLAND DEVELOPMENT, LLC;)
 MEADOW CREEK, LP; MILLER TOWN, LP;)
 SWISS RIDGE, LP; 17TH STREET, LP; ALTA)
 VISTA, LP; FOREST VIEW, LP;)
 STONEBRIDGE, LP; SPRING BRANCH, LLC;)
 DELROSE COURT, LP; RIVER VIEW)
 PARK, LP; SUTHERLAND VIEW)
 APARTMENTS, LP; LYON’S DEN, LP;)
 DUNHILL, LLC; ASHTON VIEW, LLC; WEST)
 VISTA RIDGE, LLC; CASSELL RIDGE, LP;)
 CASSELL VIEW, LP; SUTHERLAND PARK, LP;)
 AZALEA DEVELOPMENT, LLC;)
 THE HIGHLANDS APARTMENTS, LP; and)
 BEASON WELL, LP,)
)
 Defendants.)
 _____)

Civil Case No. 3:08-cv-960
FIRST AMENDED COMPLAINT

The United States of America alleges:

1. This action is brought by the United States to enforce the Fair Housing Act, Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (the “Fair Housing Act”), 42 U.S.C. §§ 3601 – 3619, and Title III of the Americans with Disabilities Act of 1990 (the “ADA”), 42 U.S.C. §§ 12181-12189.

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331 and 1345, and 42 U.S.C. §§ 3614(a) and 12188(b)(1)(B).

3. Venue is proper under 28 U.S.C. § 1391(b) because a substantial part of the events giving rise to the United States' allegations occurred in the Middle District of Tennessee, many of the subject properties are located in this District, and Defendants either reside or do business in this District.

SUBJECT PROPERTIES

4. Meadowcreek Apartments is an apartment property located at 919 South Dickerson Road in Goodlettsville, TN. Meadowcreek Apartments consists of nine two-story, non-elevator buildings and contains 84 total dwelling units, 48 of which are located on the ground floor. Meadowcreek Apartments was developed using Low-Income Housing Tax Credits awarded in 2001.

5. Miller Town Apartments is an apartment property located at 395 Jack Miller Blvd. in Clarksville, TN. Miller Town Apartments consists of twelve two-story, non-elevator buildings and contains 96 total dwelling units, 48 of which are located on the ground floor. Miller Town Apartments was developed using Low-Income Housing Tax Credits awarded in 2001.

6. Swiss Ridge Apartments is an apartment property located at 455 Swiss Avenue in Nashville, TN. Swiss Ridge Apartments consists of four non-elevator buildings, one of which is a three-story building, and three of which have two stories plus an additional lower level. Swiss Ridge Apartments contains 84 total dwelling units, 32 of which are located on the ground floor and 12 of which are located on the lower level, which is also considered a ground floor under the

Fair Housing Accessibility Guidelines, 56 Fed. Reg. 9472 (1991). Swiss Ridge Apartments was developed using Low-Income Housing Tax Credits awarded in 2002.

7. 17th Street Apartments is an apartment property located at 2565 17th Avenue East in Springfield, TN. 17th Street Apartments consists of six two-story, non-elevator buildings and contains 96 total dwelling units, 48 of which are located on the ground floor. 17th Street Apartments was developed using Low-Income Housing Tax Credits awarded in 2002.

8. Lake Side Apartments is an apartment property located at 3940 Bell Road in Hermitage, TN. Lake Side Apartments consists of six non-elevator apartment buildings, three of which are three-story buildings, and three of which have three stories plus an additional lower level. Lake Side Apartments contains 156 total dwelling units, 48 of which are located on the ground floor and 12 of which are located on the lower level, which is also considered a ground floor under the Fair Housing Accessibility Guidelines, 56 Fed. Reg. 9472 (1991). Lake Side Apartments was developed using Low-Income Housing Tax Credits awarded in 2003.

9. Forest View Apartments is an apartment property located at 119 Belinda Parkway in Mt. Juliet, TN. Forest View Apartments consists of seven non-elevator apartments buildings, two of which are two-story buildings, and five of which have two stories plus an additional lower level. Forest View Apartments contains 130 total dwelling units, 56 of which are located on the ground floor and 18 of which are located on the lower level, which is also considered a ground floor under the Fair Housing Accessibility Guidelines, 56 Fed. Reg. 9472 (1991). Forest View Apartments was developed using Low-Income Housing Tax Credits awarded in 2003.

10. Stonebridge Apartments is an apartment property located at 100 Stonebridge Way, adjacent to Tom Hitch Parkway in Columbia, TN. Stonebridge Apartments consists of four two-

story, non-elevator apartment buildings and contains 64 total dwelling units, 32 of which are located on the ground floor. Stonebridge Apartments was developed using Low-Income Housing Tax Credits awarded in 2005.

11. Spring Branch Apartments is an apartment property located at 1830 Spring Branch Drive in Madison, TN. Spring Branch Apartments consists of nine non-elevator apartment buildings, five of which have two stories and four of which have two stories plus an additional lower level. Spring Branch Apartments contains 80 total dwelling units, 36 of which are located on the ground floor and eight of which are located on the lower level, which is also considered a ground floor under the Fair Housing Accessibility Guidelines, 56 Fed. Reg. 9472 (1991). Spring Branch Apartments was developed using Low-Income Housing Tax Credits awarded in 2000.

12. Swiss View Apartments is an apartment property located at 499 Swiss Avenue in Nashville, TN. Swiss View Apartments consists of two two-story, non-elevator apartment buildings and contains 32 total dwelling units, 16 of which are located on the ground floor. Swiss View Apartments was developed using Low-Income Housing Tax Credits awarded in 2005.

13. River View Park Apartments is an apartment property located at 3219 River Maple Way in Knoxville, TN. River View Park Apartments consists of four three-story, non-elevator apartments buildings and contains 96 total dwelling units, 32 of which are located on the ground floor. River View Park Apartments was developed using Low-Income Housing Tax Credits awarded in 2005.

14. Sutherland View Apartments is an apartment property located at 3220 Atchley Ridge Way in Knoxville, TN. Sutherland View Apartments consists of seven three-story, non-elevator

apartment buildings and contains 164 total dwelling units, 56 of which are located on the ground floor and four of which are located on the lower level, which is also considered a ground floor under the Fair Housing Accessibility Guidelines, 56 Fed. Reg. 9472 (1991). Sutherland View Apartments was developed using Low-Income Housing Tax Credits awarded in 2006.

15. Lyon's Den Apartments is an apartment property located at 3610 Lyon's Way in Knoxville, TN. Lyon's Den Apartments consists of three three-story, non-elevator apartment buildings and contains 74 total dwelling units, 26 of which are located on the ground floor. Lyon's Den Apartments was developed using Low-Income Housing Tax Credits awarded in 2000.

16. Dunhill Apartments is an apartment property located at 1036 Dunhill Way in Knoxville, TN. Dunhill Apartments consists of three two-story and four three-story, non-elevator apartment buildings and contains 74 total dwelling units, 28 of which are located on the ground floor, and eight of which are located on the lower level, which is also considered a ground floor under the Fair Housing Accessibility Guidelines, 56 Fed. Reg. 9472 (1991). Dunhill Apartments was developed using Low-Income Housing Tax Credits awarded in 1998.

17. Ashton View Apartments is an apartment property located at 169 Barkley Landing Drive in Morristown, TN. Ashton View Apartments consists of three two-story and five three-story, non-elevator apartment buildings and contains 74 total dwelling units, 32 of which are located on the ground floor, and 10 of which are located on the lower level, which is also considered a ground floor under the Fair Housing Accessibility Guidelines, 56 Fed. Reg. 9472 (1991). Ashton View Apartments was developed using Low-Income Housing Tax Credits awarded in 1999.

18. West Vista Ridge Apartments is an apartment property located at 1201 Vista Ridge Way in Knoxville, TN. West Vista Ridge Apartments consists of seven three-story, non-elevator apartment buildings and contains 96 total dwelling units, 28 of which are located on the ground floor. West Vista Ridge Apartments was developed using Low-Income Housing Tax Credits awarded in 1999.

19. Cassell Ridge Apartments is an apartment property located at 1230 Cassell Valley Way in Knoxville, TN. Cassell Ridge Apartments consists of five four-story, non-elevator apartment buildings and contains 144 total dwelling units, 40 of which are located on the ground floor, and 20 of which are located on the lower level, which is also considered a ground floor under the Fair Housing Accessibility Guidelines, 56 Fed. Reg. 9472 (1991). Cassell Ridge Apartments was developed using Low-Income Housing Tax Credits awarded in 2003.

20. Cassell View Apartments is an apartment property located at 1111 Elk Hill Way in Knoxville, TN. Cassell View Apartments consists of three three-story, non-elevator apartment buildings and contains 72 total dwelling units, 24 of which are located on the ground floor. Cassell View Apartments was developed using Low-Income Housing Tax Credits awarded in 2006.

21. Sutherland Park Apartments is an apartment property located at 510 Vista Glen Way in Knoxville, TN. Sutherland Park Apartments consists of two three-story, non-elevator apartment buildings and contains 48 total dwelling units, 16 of which are located on the ground floor. Sutherland Park Apartments was developed using Low-Income Housing Tax Credits awarded in 2004.

22. White Oak Apartments is an apartment property located at 114 Holt Spur Drive in

Jamestown, TN. White Oak Apartments consists of five two-story, non-elevator apartment buildings and contains 40 total dwelling units, 20 of which are located on the ground floor. White Oak Apartments was developed using Low-Income Housing Tax Credits awarded in 2000.

23. The Highlands Apartments is an apartment property located at 2001 S. Lyerly Street in Chattanooga, TN. The Highlands Apartments consists of three two-story, non-elevator apartment buildings and contains 48 total dwelling units, 24 of which are located on the ground floor. The Highlands Apartments was developed using Low-Income Housing Tax Credits awarded in 2006.

24. Beason Well Apartments is an apartment property located at 893 New Beason Well Road in Kingsport, TN. Beason Well Apartments consists of four two-story, non-elevator apartment buildings and contains 72 total dwelling units, 36 of which are located on the ground floor. Beason Well Apartments was developed using Low-Income Housing Tax Credits awarded in 2001.

DEFENDANTS

25. Defendant Murphy Development, LLC is an active for-profit limited liability company incorporated in Tennessee with its principal office address listed as 6514 Deane Hill Drive, Knoxville, TN 37919. Additional addresses include 5401 Kingston Pike, Ste 340-1, Knoxville, TN 37919-5052; 813 S. Northshore Dr., Suite 105, Knoxville, TN 37919 and 4823 Old Kingston Pike, Suite 205, Knoxville, TN 37919-6473. Murphy Development, LLC is the developer for at least thirteen of the twenty-one properties that are the subject of this complaint, described above at Paragraphs 4-24 (the "Subject Properties"), and was involved in the design

and construction of those thirteen properties. Murphy Development, LLC is also the General Partner of Lyon's Den, LP, the owner of Lyon's Den Apartments, and was involved in the design and construction of Lyon's Den Apartments. John A. Murphy and Paul J. Murphy, III, are the sole members of Murphy Development, LLC.

26. Westland Development, LLC is an active for-profit limited liability company incorporated in Tennessee with its principal office address listed as 6514 Deane Hill Drive, Knoxville, TN 37919. Westland Development, LLC is the developer for at least three of the twenty-one properties that are the subject of this complaint, described above at Paragraphs 4-24 (the "Subject Properties"), and was involved in the design and construction of those three properties. John A. Murphy is the sole member and manager of Westland Development, LLC.

27. Meadow Creek, LP is an active limited partnership incorporated in Tennessee. Addresses for Meadow Creek, LP include 4823 Old Kingston Pike, Ste. 205, Knoxville, TN 37919-6473 and 813 S. Northshore Dr., 105, Knoxville, TN 37919. Meadow Creek, LP is the owner of Meadowcreek Apartments and was involved in the design and construction of Meadowcreek Apartments.

28. Miller Town, LP is an active limited partnership incorporated in Tennessee. Addresses for Miller Town, LP include 6514 Deane Hill Drive, Knoxville, TN 37919 and 813 S. Northshore Dr., 105, Knoxville, TN 37919. Miller Town, LP is the owner of Miller Town Apartments and was involved in the design and construction of Miller Town Apartments.

29. Swiss Ridge, LP is an active limited partnership, incorporated in Tennessee. Addresses for Swiss Ridge, LP include 813 S. Northshore Dr., Ste. 105, Knoxville, TN 37919 and 4823 Old Kingston Pike, Ste. 205, Knoxville, TN 37919-6473. Swiss Ridge, LP is the

owner of Swiss Ridge Apartments and was involved in the design and construction of Swiss Ridge Apartments.

30. 17th Street, LP is an active limited partnership incorporated in Tennessee. Addresses for 17th Street, LP include 6514 Deane Hill Drive, Knoxville, TN 37919; 4823 Old Kingston Pike, Ste. 205, Knoxville, TN 37919-6473; and 813 S. Northshore Dr., 105, Knoxville, TN 37919. 17th Street, LP is the owner of 17th Street Apartments and was involved in the design and construction of 17th Street Apartments.

31. Alta Vista, LP is an active limited partnership incorporated in Tennessee. Its principal office address is 4823 Old Kingston Pike, Ste. 205, Knoxville, TN 37919. Additional addresses for Alta Vista, LP include 813 Northshore Drive, Suite 105, Knoxville, TN 37919 and 6514 Deane Hill Drive, Knoxville, TN 37919. Alta Vista, LP is the owner of Lake Side Apartments and was involved in the design and construction of Lake Side Apartments.

32. Forest View, LP is an active limited partnership incorporated in Tennessee. Its principal office address is 4823 Old Kingston Pike, Suite 205, Knoxville, TN 37919. Forest View, LP is the owner of Forest View Apartments and was involved in the design and construction of Forest View Apartments.

33. Stonebridge, LP is an active limited partnership incorporated in Tennessee. Addresses for Stonebridge, LP include 6514 Deane Hill Drive, Knoxville, TN 37919 and 4823 Old Kingston Pike, Ste. 205, Knoxville, TN 37919-6473. Stonebridge, LP is the owner of Stonebridge Apartments and was involved in the design and construction of Stonebridge Apartments.

34. Spring Branch, LLC is an active for-profit limited liability company incorporated in

Tennessee. The address for Spring Branch, LLC is 6514 Deane Hill Drive, Knoxville, TN 37919. Spring Branch, LLC is the owner of Spring Branch Apartments and was involved in the design and construction of Spring Branch Apartments. John A. Murphy, Paul J. Murphy, III, and Adren S. Greene are the sole members or shareholders of Spring Branch, LLC.

35. Delrose Court, LP is an active limited partnership incorporated in Tennessee. The address for Delrose Court, LP is 4823 Old Kingston Pike, Ste. 205, Knoxville, TN 37919-6473. Delrose Court, LP is the owner of Swiss View Apartments and was involved in the design and construction of Swiss View Apartments.

36. River View Park, LP is an active limited partnership incorporated in Tennessee. The address for River View Park, LP is 4823 Old Kingston Pike, Ste. 205, Knoxville, TN 37919-6473. River View Park, LP is the owner of River View Park Apartments and was involved in the design and construction of River View Park Apartments.

37. Sutherland View Apartments, LP is an active limited partnership incorporated in Tennessee. The address for Sutherland View Apartments, LP is 4823 Old Kingston Pike, Ste. 205, Knoxville, TN 37919-6473. Sutherland View Apartments, LP is the owner of Sutherland View Apartments and was involved in the design and construction of Sutherland View Apartments.

38. Lyon's Den, LP is an active limited partnership incorporated in Tennessee. Addresses for Lyon's Den, LP include 4823 Old Kingston Pike, Ste. 205, Knoxville, TN 37919-6473, and 813 S. Northshore Dr., 105, Knoxville, TN 37919. Lyon's Den, LP is the owner of Lyon's Den Apartments and was involved in the design and construction of Lyon's Den Apartments.

39. Dunhill, LLC is an active for-profit limited liability company incorporated in Tennessee. The address for Dunhill, LLC is 6514 Deane Hill Drive, Knoxville, TN 37919. Dunhill, LLC is the owner of Dunhill Apartments and was involved in the design and construction of Dunhill Apartments. John A. Murphy, Paul J. Murphy, III, and Adren S. Greene are the sole members or shareholders of Dunhill, LLC.

40. Ashton View, LLC is an active for-profit limited liability company incorporated in Tennessee. The address for Ashton View, LLC is 6514 Deane Hill Drive, Knoxville, TN 37919. Ashton View, LLC is the owner of Ashton View Apartments and was involved in the design and construction of Ashton View Apartments. John A. Murphy, Paul J. Murphy, III, and Adren S. Greene are the sole members or shareholders of Ashton View, LLC.

41. West Vista Ridge, LLC is an active for-profit limited liability company incorporated in Tennessee. Addresses for West Vista Ridge, LLC include 6514 Deane Hill Drive, Knoxville, TN 37919 and 813 S. Northshore Dr., 105, Knoxville, TN 37919. West Vista Ridge, LLC is the owner of West Vista Ridge Apartments and was involved in the design and construction of West Vista Ridge Apartments. John A. Murphy, Paul J. Murphy, III, and Adren S. Greene are the sole members or shareholders of West Vista Ridge, LLC.

42. Cassell Ridge, LP is an active limited partnership incorporated in Tennessee. Addresses for Cassell Ridge, LP include 6514 Deane Hill Drive, Knoxville, TN 37919; 4823 Old Kingston Pike, Ste. 205, Knoxville, TN 37919-6473; and 813 S. Northshore Dr., 105, Knoxville, TN 37919. Cassell Ridge, LP is the owner of Cassell Ridge Apartments and was involved in the design and construction of Cassell Ridge Apartments.

43. Cassell View, LP is an active limited partnership incorporated in Tennessee. The

address for Cassell View, LP is 4823 Old Kingston Pike, Ste. 205, Knoxville, TN 37919-6473.

Cassell View, LP is the owner of Cassell View Apartments and was involved in the design and construction of Cassell View Apartments.

44. Sutherland Park, LP is an active limited partnership incorporated in Tennessee. Addresses for Sutherland Park, LP include 4823 Old Kingston Pike, Ste. 205, Knoxville, TN 37919-6473; and 813 S. Northshore Dr., 105, Knoxville, TN 37919. Sutherland Park, LP is the owner of Sutherland Park Apartments and was involved in the design and construction of Sutherland Park Apartments.

45. Azalea Development, LLC is an active for-profit limited liability company incorporated in Tennessee. Addresses for Azalea Development, LLC include 4823 Old Kingston Pike, Ste. 205, Knoxville, TN 37919-6473; 813 S. Northshore Dr., 105, Knoxville, TN 37919; and 67 Irwin Avenue, Crossville, TN 38555. Azalea Development, LLC is the owner of White Oak Apartments and was involved in the design and construction of White Oak Apartments.

46. The Highlands Apartments, LP is an active limited partnership incorporated in Tennessee. The address for The Highlands Apartments, LP is 4823 Old Kingston Pike, Ste. 205, Knoxville, TN 37919-6473. The Highlands Apartments, LP is the owner of The Highlands Apartments and was involved in the design and construction of The Highlands Apartments.

47. Beason Well, LP is an active limited partnership incorporated in Tennessee. The address for Beason Well, LP is 4823 Old Kingston Pike, Ste. 205, Knoxville, TN 37919-6473. Beason Well, LP is the owner of Beason Well Apartments and was involved in the design and construction of Beason Well Apartments.

FACTUAL ALLEGATIONS

48. The Subject Properties described in paragraphs 4-24 were designed and constructed for first occupancy after March 13, 1991.

49. Each of the Subject Properties contains “dwellings” as defined by 42 U.S.C. § 3602(b).

50. Each of the Subject Properties contains “covered multifamily dwellings” within the meaning of 42 U.S.C. § 3604(f)(7).

51. The covered multifamily dwellings at the Subject Properties are subject to the requirements of 42 U.S.C. § 3604(f).

52. The covered multifamily dwellings at the Subject Properties identified in paragraphs 4-24 are not designed and constructed in a manner that complies with the requirements of 42 U.S.C. § 3604 (f)(3)(C), including the following requirements:

- a. the public use and common use portions of the dwellings therein are readily accessible to and usable by handicapped persons; and/or
- b. all the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs; and/or
- c. all premises within such dwellings contain the following features of adaptive designs:
 - (1) an accessible route into and through the dwellings;
 - (2) light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;

- (3) usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

53. The rental or sales offices at the properties described in paragraphs 4-24 are public accommodations within the meaning of Section 301(7)(E) of the Americans With Disabilities Act, 42 U.S.C. § 12181(7)(E).

54. The rental or sales offices of the properties described in paragraphs 4-24 were designed and constructed for first occupancy after January 26, 1993.

55. The rental or sales offices of the properties described in paragraphs 4-24 are subject to the requirements of 42 U.S.C. §§ 12181-12183.

56. The rental or sales offices of the properties described in paragraphs 4-24 are not designed and constructed so that they are readily accessible to and usable by individuals with disabilities, as required by Section 303(a)(1) of the ADA, 42 U.S.C. § 12183(a)(1). These rental or sales offices fail to comply with the Department of Justice's regulation implementing Title III of the ADA, 28 C.F.R. Part 36, including the Standards for Accessible Design, 28 C.F.R. Part 36, Appendix A.

FAIR HOUSING ACT CLAIMS

57. The allegations of Paragraphs 1 – 56 are hereby incorporated by reference.

58. The Defendants have failed to design and construct covered multifamily dwellings in the manner set forth in 42 U.S.C. §§ 3604(f)(3).

59. The Defendants may have designed and constructed other multifamily housing complexes for first occupancy after March 13, 1991, which are also subject to the Fair Housing Act's accessibility requirements.

60. The Defendants' conduct described above violates 42 U.S.C. §§ 3604(f)(1), (f)(2), and (f)(3)(c).

61. The Defendants' conduct constitutes:

- a. a pattern or practice of resistance to the full enjoyment of rights granted by the Fair Housing Act, 42 U.S.C. §§ 3601 – 3619; or
- b. a denial to a group of persons of rights granted by the Fair Housing Act, 42 U.S.C. §§ 3601 – 3619, which raises an issue of general public importance.

62. Persons who may have been the victims of the Defendants' discriminatory housing practices are aggrieved persons as defined in 42 U.S.C. § 3602(i), and may have suffered injuries as a result of the conduct described above.

63. The Defendants' conduct described above was intentional, willful, and taken in disregard for the rights of others.

AMERICANS WITH DISABILITIES ACT CLAIMS

64. The allegations of Paragraphs 1 – 56 are hereby incorporated by reference.

65. Defendants have failed to design and/or construct the rental or sales offices and other public use areas at the Subject Properties in a manner required by 42 U.S.C. § 12183(a)(1), 28 C.F.R. §§ 36.401 and 36.406, and 28 C.F.R. Part 36, Appendix A.

66. Defendants may have designed and constructed the rental or sales offices and other public use areas at other multifamily housing complexes that are subject to the Americans with Disabilities Act's accessibility requirements.

67. Defendants' conduct constitutes:

- a. a pattern or practice of discrimination within the meaning of 42 U.S.C.

§ 12188(b)(1)(B)(i) and 28 C.F.R. § 36.503(a); or

- b. unlawful discrimination that raises an issue of general public importance within the meaning of 42 U.S.C. § 12188(b)(1)(B)(ii) and 28 C.F.R. § 36.503(b).

69. Persons who may have been the victims of Defendants' discriminatory conduct are aggrieved persons as defined in 42 U.S.C. § 12188(b)(2)(B), and may have suffered injuries as a result of the conduct described above.

70. Defendants' conduct described above was intentional, willful, and taken in disregard for the rights of others.

PRAYER FOR RELIEF

WHEREFORE, the United States prays that the Court enters an order that:

1. Declares that the Defendants' conduct as alleged herein violates the Fair Housing Act and the Americans with Disabilities Act; and
2. Enjoins the Defendants, their officers, employees, agents, successors, and all other persons in active concert or participation with any of them, from:
 - (a) Failing or refusing to bring the living units and public and common use areas in these and other covered multifamily dwellings designed and constructed by the Defendants into compliance with 42 U.S.C. § 3604(f)(3)(C);
 - (b) Failing or refusing to conduct a compliance survey at all covered multifamily dwellings designed and constructed by the Defendants to determine whether the retrofits ordered in paragraph (a), above, were made

properly;

- (c) Designing and constructing any covered multifamily dwellings in the future that do not comply with 42 U.S.C. § 3604(f)(3)(C);
 - (d) Failing or refusing to bring the public accommodations, including the rental and sales offices, for these and other covered multifamily dwellings designed and constructed by Defendants into compliance with 42 U.S.C. § 12183(a)(1), 28 C.F.R. §§ 36.401 and 36.406, and 28 C.F.R. Part 36, Appendix A;
 - (e) Failing or refusing to conduct a compliance survey at all covered multifamily dwellings designed and constructed by Defendants to determine whether the retrofits ordered in paragraph (d), above, were made properly;
 - (f) Designing and constructing any public accommodations for any covered multifamily dwelling in the future that do not comply with 42 U.S.C. § 12183(a)(1), 28 C.F.R. §§ 36.401 and 36.406, and 28 C.F.R. Part 36, Appendix A.
 - (g) Failing or refusing to take such affirmative steps as may be necessary to restore, as nearly as practicable, the victims of Defendants' unlawful practices to the position they would have been in but for the discriminatory conduct; and
3. Awards monetary damages to all persons harmed by the Defendants' discriminatory practices, pursuant to 42 U.S.C. §§ 3614(d)(1)(B) and 12188(b)(2)(B); and

4. Assesses a civil penalty against all Defendants to vindicate the public interest pursuant to 42 U.S.C. §§ 3614(d)(1)(C) and 12188(b)(2)(C) and 28 C.F.R. § 85.3(b)(3).

The United States further prays for such additional relief as the interests of justice may require.

Dated: March 17, 2009

Respectfully submitted,

ERIC H. HOLDER, JR.
Attorney General

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CERTIFICATE OF SERVICE

I hereby certify that on March 17, 2009, I served the foregoing FIRST AMENDED COMPLAINT with the Clerk of the Court using the CM/ECF system which sent notification of such filing to the following:

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