

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS

FILED
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CLERK US DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY  DEPUTY

UNITED STATES OF AMERICA,

Plaintiff,

v.

Civil Action No.

SDC LEGEND COMMUNITIES, INC., (AKA LEGEND
COMMUNITIES, INC. AND SDC AUSTIN
COMMUNITIES, INC.); RANDALL JONES
ENGINEERING, INC.; ALEXANDER CONSULTING
ENGINEERS, INC., D/B/A PROFESSIONAL DESIGN
GROUP; LAND DESIGN STUDIO; HATCH
PARTNERSHIP, L.L.P., ARCHITECTS; DANZE &
DAVIS ARCHITECTS, INC.; ST. JOHN'S HOUSING
PARTNERSHIP, L.P.; SMCD DEVELOPMENT, INC.;
DECKER LANE PARTNERS L.P.; AND SDCW
DEVELOPMENT CORP.

Defendants.

A06CA068 SS

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 (Fair Housing Act), 42 U.S.C. §§ 3601-3619.

Jurisdiction and Venue

2. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331 and 1345 and 42 U.S.C. § 3614(a). The Court may grant declaratory and other relief pursuant to 28 U.S.C. §§ 2201 and 2202.

3. Venue is proper because the alleged acts took place in the Western District of Texas.

The Properties

4. St. John's Village Apartments ("St. John's Village") is a residential dwelling complex located at 7607 Blessing Avenue, City of Austin, Travis County, Texas, in the Western District of Texas. St. John's Village consists of thirteen buildings, each containing four or more units, 52 of which are located on the ground floor. All the units at St. John's Village were designed and constructed for first occupancy after March 13, 1991.

5. Huntington Meadows Apartments ("Huntington Meadows," formerly known as The Gardens at Decker Lake Apartments), is a residential dwelling complex located at 7000 Decker Lane, City of Austin, Travis County, Texas, in the Western District of Texas. Huntington Meadows consists of 50 buildings, each containing four or more units, 110 of which are located on the ground floor. All the units at Huntington Meadows were designed and constructed for first occupancy after March 13, 1991.

6. The living units at St. John's Village and Huntington Meadows are "dwellings" within the meaning of 42 U.S.C. § 3602(b).

7. All of the 52 ground-floor units at St. John's Village are "covered multi-family dwellings" within the meaning of 42 U.S.C. § 3604 (f)(7)(B).

8. All of the 110 ground-floor units at Huntington Meadows are "covered multi-family dwellings" within the meaning of 42 U.S.C. § 3604 (f)(7)(B).

9. The ground-floor units referred to in the preceding two paragraphs and the common areas at St. John's Village and Huntington Meadows are subject to the accessibility requirements of 42 U.S.C. § 3604(f)(3)(C).

10. St. John's Village and Huntington Meadows were constructed with financing from

the federal low income housing tax credit program.

Defendants

11. Defendant SDC Legend Communities, Inc., (also known as "Legend Communities, Inc.," and "SDC Austin Communities, Inc.,"), a Texas corporation whose principal place of business is in the City of Austin, Texas, is the general contractor for St. John's Village and Huntington Meadows.

12. Defendant St. John's Housing Partnership, L.P., a Texas limited partnership with its principal place of business in the City of Austin, Texas, was the owner of St. John's Village at the time of its design and construction and remains its owner.

13. Defendant SMCD Development, Inc., is a Texas corporation, the principal place of business of which is in the City of Austin, Texas, and was the developer of St. John's Village.

14. Defendant, Hatch Partnership, L.L.P., Architects, whose principal place of business is in the City of Austin, Texas, designed St. John's Village and was retained to do so by defendant St. John's Housing Partnership L.P.

15. Defendant Randall Jones Engineering, Inc., whose principal place of business is in the City of Austin, Texas, as civil engineer, designed the exterior attributes of St. John's Village and Huntington Meadows.

16. Defendant Land Design Studio, whose principal place of business is in the City of Austin, Texas, participated with defendants Hatch and Jones in the design of the exterior attributes of St. John's Village.

17. Defendant Alexander Consulting Engineers, Inc., d/b/a Professional Design Group, whose principal place of business is in the City of Austin, Texas, participated in designing the

exterior attributes of St. John's Village, including the foundation, framing and retaining walls and performed structural inspections of fifteen buildings in the complex.

18. Decker Lane Partners L.P., a limited partnership whose principal place of business is in the City of Austin, Texas, was the owner of Huntington Meadows at the time of its design and construction and remains its owner.

19. SDCW Development Corp., whose principal place of business is in the City of Austin, Texas, was the developer of Huntington Meadows.

20. Defendant Danze & Davis Architects, Inc., whose principal place of business is Austin, Texas, designed Huntington Meadows and was retained to do so by defendant SDC Legend Communities.

Count I

21. The allegations of paragraphs 1 through 17 are hereby incorporated by reference.

22. Defendants SDC Legend Communities, Inc., (aka Legend Communities, Inc. and SDC Austin Communities, Inc.), St. John's Housing Partnership L.P., SMCD Development, Inc., Hatch Partnership, L.L.P., Architects, Randall Jones Engineering, Inc., Land Design Studio, and Alexander Consulting Engineers, Inc., d/b/a Professional Design Group, participated in the design and/or the construction of St. John's Village.

23. The defendants, as described in paragraph 22, failed to design and construct St. John's Village in compliance with the accessibility and adaptability features mandated by 42 U.S.C. § 3604(f)(3)(C) so that:

(a) the public use and common use portions are readily accessible to and usable by individuals with disabilities;

(b) all doors within the ground-floor units are sufficiently wide to allow passage by persons with disabilities who use wheelchairs; and

(c) all of the ground-floor units contain the following features: (i) an accessible route into and through the dwelling; (ii) electrical outlets, thermostats, and other environmental controls in accessible locations; (iii) reinforcements in bathroom walls to allow later installation of grab bars; and iv) usable kitchens and bathrooms such that an individual using a wheelchair can maneuver about the space.

24. Defendants, through the actions referred to in the preceding paragraph, have:

(a) Discriminated in the rental, or otherwise made unavailable or denied, dwellings to persons because of disability, in violation of 42 U.S.C. § 3604(f)(1);

(b) Discriminated against persons in the terms, conditions or privileges of rental of a dwelling, or in the provision of services or facilities in connection with a dwelling, because of disability, in violation of 42 U.S.C. § 3604(f)(2); and

(c) Failed to design and construct dwellings in compliance with the accessibility and adaptability features mandated by 42 U.S.C. § 3604(f)(3)(C).

25. The conduct of defendants described in paragraph 23 and referenced in paragraph 24 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; and

(b) A denial to a group of persons of rights granted by the Fair Housing Act, 42 U.S.C. §§ 3601-3619, which denial raises an issue of general public importance.

26. Persons who may have been the victims of defendants' discriminatory practices are

aggrieved persons as defined in 42 U.S.C. § 3602(i). Such persons may have suffered actual injury and damages as a result of the above actions and practices.

27. The defendants' conduct described above was intentional, willful, and/or taken in disregard for the rights of others.

Count II

28. The allegations of paragraphs 1-11, 15, and 18-20 are hereby realleged and incorporated by reference.

29. Defendants SDC Legend Communities, Inc., (aka Legend Communities, Inc. and SDC Austin Communities, Inc.), Decker Lane Partners L.P., SDCW Development Corp., Danze & Davis Architects, Inc., and Randall Jones Engineering, Inc., participated in the design and/or the construction of the Gardens at Decker Lake Apartments (now known as Huntington Meadows).

30. The defendants, as described in paragraph 29, failed to design and construct Huntington Meadows in compliance with the accessibility and adaptability features mandated by 42 U.S.C. § 3604(f)(3)(C) so that:

(a) the public use and common use portions are readily accessible to and usable by individuals with disabilities;

(b) all doors within the ground-floor units are sufficiently wide to allow passage by persons with disabilities who use wheelchairs; and

(c) all of the ground-floor units contain the following features: (i) an accessible route into and through the dwelling; (ii) electrical outlets, thermostats, and other environmental controls in accessible locations; (iii) reinforcements in bathroom walls to

allow later installation of grab bars; and iv) usable kitchens and bathrooms such that an individual using a wheelchair can maneuver about the space.

31. Defendants, through the actions referred to in the preceding paragraph, have:

(a) Discriminated in the rental, or otherwise made unavailable or denied, dwellings to persons because of disability, in violation of 42 U.S.C. § 3604(f)(1);

(b) Discriminated against persons in the terms, conditions or privileges of rental of a dwelling, or in the provision of services or facilities in connection with a dwelling, because of disability, in violation of 42 U.S.C. § 3604(f)(2); and

(c) Failed to design and construct dwellings in compliance with the accessibility and adaptability features mandated by 42 U.S.C. § 3604(f)(3)(C).

32. The conduct of defendants described in paragraph 30 and referenced in paragraph 31 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; and

(b) A denial to a group of persons of rights granted by the Fair Housing Act, 42 U.S.C. §§ 3601-3619, which denial raises an issue of general public importance.

33. Persons who may have been the victims of defendants' discriminatory practices are aggrieved persons as defined in 42 U.S.C. § 3602(i). Such persons may have suffered actual injury and damages as a result of the above actions and practices.

34. The discriminatory actions of defendants' conduct described above were intentional, willful, and/or taken in disregard for the rights of others.

WHEREFORE, the United States prays that the court enter an ORDER that:

1. Declares that the policies and practices of defendants, as alleged herein, violate the Fair Housing Act;

2. Enjoins 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 ground-floor units and public use and common use areas at St. John's Village and Huntington Meadows into compliance with 42 U.S.C. § 3604(f)(3)(C);

(b) Failing or refusing to take such affirmative steps as may be necessary to restore, as nearly as practicable, the persons harmed by the defendants' unlawful practices to the position they would have been in but for the discriminatory conduct;

(c) Designing or constructing covered multifamily dwellings in the future that do not contain the accessibility and adaptability features required by 42 U.S.C.

§ 3604(f)(3)(C); and

3. Awards appropriate monetary relief, pursuant to 42 U.S.C. § 3614(d)(1)(B) to compensate fully each person harmed by defendants' discriminatory policies, practices, or conduct.

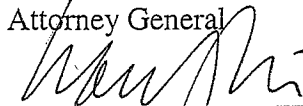
4. Assesses a civil penalty against defendants SDC Legend Communities, Inc., St. John's Housing Partnership, L.P., SMCD Development, Inc., Hatch Partnership, L.L.P., Architects, Randall Jones Engineering, Inc., Land Design Studio, and Alexander Consulting Engineers, Inc. in the maximum amount authorized by 42 U.S.C. § 3614(d)(1)(C) in order to vindicate the public interest and deter future violations of the Fair Housing Act.

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

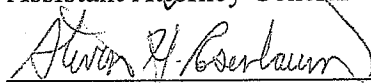
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