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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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UNITED STATES OF AMERICA,	: <b><u>COMPLAINT</u></b>
	:
Plaintiff,	:
	: 17 Civ. _____
v.	:
	:
ATLANTIC DEVELOPMENT GROUP, LLC; COSTAS	:
KONDYLIS & PARTNERS, LLP,	:
	:
Defendants, and	:
	:
SENIOR LIVING OPTIONS, INC., as Relief Defendant.	:
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Plaintiff the United States of America (the “United States”) alleges as follows:

1. This action is brought by the United States to enforce the Fair Housing Act, as amended by the Fair Housing Amendments Act of 1988 (the “Fair Housing Act” or the “Act”), 42 U.S.C. §§ 3601-3619. As set forth in full below, the United States alleges that defendants, the developer and architect of the apartment complex at 33 West End Avenue (“33 West End”), a residential apartment complex in Manhattan, have unlawfully discriminated against persons with disabilities under the Fair Housing Act by failing to design and construct 33 West End and other rental complexes so as to be accessible to persons with disabilities.

**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).

3. Venue is proper pursuant to 28 U.S.C. § 1391(b) and (c) because the claims alleged in this action arose in the Southern District of New York, and concern or otherwise relate to real property located in this District.

**THE PROPERTY**

4. 33 West End is a residential apartment building located at 33 West End Avenue in New York, New York. The complex consists of two sections — a market-rate section and a senior-housing section. Both sections have elevator access. Together, the complex contains 331 rental apartment units as well as public and common use areas such as a leasing office, laundry facilities, a fitness center and a tenants' lounge.

5. The rental units at 33 West End are “dwellings” within the meaning of 42 U.S.C. § 3602(b), and “dwelling units” within the meaning of 24 C.F.R. § 100.21.

6. 33 West End was designed and constructed for first occupancy after March 13, 1991. All of the rental units are “covered multifamily dwellings” within the meaning of 42 U.S.C. § 3604(f)(7) and 24 C.F.R. § 100.21. The complex is subject to the accessibility requirements of 42 U.S.C. § 3604(f)(3)(C) and 24 C.F.R. § 100.205(a), (c).

**THE DEFENDANTS AND RELIEF DEFENDANT**

7. Atlantic Development Group, LLC (“Atlantic”), a New York limited liability company, is the owner and developer of 33 West End and, in that capacity, designed and constructed the apartment complex.

8. Costas Kondylis & Partners, LLP (“Costas Kondylis”), a New York limited liability partnership, drew the architectural plans for 33 West End and, in that capacity,

designed and constructed the apartment complex.

9. Senior Living Options, Inc. (“SLO”), a New York not-for-profit corporation, is the current owner of the senior-housing section of 33 West End. SLO is a relief defendant in this action because its participation is necessary to ensure complete relief.

**INACCESSIBLE FEATURES OF 33 WEST END**

10. 33 West End, which defendants Atlantic and Costas Kondylis designed and constructed, is inaccessible to persons with disabilities.

11. For instance, defendants Atlantic and Costas Kondylis designed and constructed the following inaccessible features in 33 West End:

- a. There is an abrupt level change at the main entrance door;
- b. Excessive force is required to operate the door to the leasing office and the door to a common use bathroom in the main lobby;
- c. There are excessively high thresholds at entrances to both common use bathrooms in the main lobby, and both bathrooms lack grab bars;
- d. There is insufficient clear floor space in the mail room;
- e. There are excessively high thresholds at entrances to individual units and at entrances to in-unit kitchens, bathrooms, and terraces;
- f. Doors to bedrooms, bathrooms, terraces, and closet within individual units lack sufficient clear opening width;
- g. Kitchens in individual units lack sufficient width;
- h. Kitchen ranges and sinks in individual units lack sufficient clearance;
- i. Bathrooms in individual units lack sufficient clear floor space;
- j. Bathroom toilets in individual units are too close to the adjacent side walls;
- k. Light switches and kitchen electrical outlets within individual units are placed at inaccessible locations;

- l. Excessive force is required to operate doors to the trash rooms; and
- m. Washers and dryers in the laundry rooms are located at inaccessible locations.

12. In light of the inaccessible conditions identified in paragraph 11 above, defendants Atlantic and Costas Kondylis failed to comply with applicable State and local design and construction provisions, including New York City Local Law 58, in designing and constructing 33 West End.

#### **ATLANTIC'S ADDITIONAL PROPERTIES**

13. The widespread inaccessible conditions at 33 West End reflect a pattern or practice on defendant Atlantic's part of failing to comply with the FHA's accessibility requirements in designing and constructing multi-family dwellings covered by the FHA.

14. Atlantic has designed and constructed dozens of other rental complexes in Manhattan, the Bronx, and Westchester County that also are subject to the Fair Housing Act's accessibility requirements. Atlantic's pattern or practice of failing to design and construct covered multifamily dwellings in compliance with the FHA, as alleged herein, may extend to the other rental complexes it has designed and constructed.

15. For example, 2 Cooper, a 15-story rental complex that Atlantic finished constructing in 2010, has numerous inaccessible features, such as (i) excessively high thresholds at entrances to individual units, (ii) insufficient clear opening widths of bathroom doors within individual units, (iii) "banjo" countertops in bathrooms within individual units that prevent grab bar installation, (iv) kitchen electrical outlets placed at inaccessible locations, and (v) excessively high thresholds at the entrances to laundry rooms, trash rooms, and the rooftop terrace.

#### **FAIR HOUSING ACT CLAIMS**

16. The United States re-alleges and incorporates by reference the allegations set

forth in paragraphs 1–15 above.

17. Defendants Atlantic and Costas Kondylis violated 42 U.S.C. § 3604(f)(3)(C), and 24 C.F.R. § 100.205(c), by failing to design and construct 33 West End in such a manner that:

- a. the public use and common use portions of the dwellings are readily accessible to and usable by persons with disabilities;
- b. all doors designed to allow passage into and within the dwellings are sufficiently wide to allow passage by persons who use wheelchairs for mobility; and
- c. all premises within such dwellings contain the following features of adaptive design:
  - i) an accessible route into and through the dwelling;
  - ii) light switches, electrical outlets, thermostats, and/or other environmental controls in accessible locations; and
  - iii) usable kitchens and bathrooms, such that an individual using a wheelchair can maneuver about the space.

18. Defendants Atlantic and Costas Kondylis, through the actions and conduct referred to in the preceding paragraph, have:

- a. Discriminated in the sale or rental of, or otherwise made unavailable or denied, dwellings to buyers or renters because of a disability, in violation of 42 U.S.C. § 3604(f)(1) and 24 C.F.R. § 100.202(a);
- b. Discriminated against persons in the terms, conditions, or privileges of the sale or rental of a dwelling, or in the provision of services or facilities in connection with a dwelling, because of a disability, in violation of 42 U.S.C. § 3604(f)(2) and 24 C.F.R. § 100.202(b); 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), and 24 C.F.R. § 100.205.

19. The conduct of defendants Atlantic and Costas Kondylis described above 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/or
  - d. A denial to a group of persons of rights granted by the Act, 42 U.S.C. §§ 3601-3619, which denial raises an issue of general public importance.

20. Persons who may have been the victims of defendants Atlantic's and Costas Kondylis's discriminatory housing practices are aggrieved persons under 42 U.S.C. § 3602(i), and may have suffered injuries as a result of defendants' conduct described above.

21. Defendants Atlantic's and Costas Kondylis's discriminatory actions and conduct described above were intentional, willful, and taken in disregard for the rights of others.

**Prayer for Relief**

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

- a. Declares that the policies and practices of defendants Atlantic and Costas Kondylis, as alleged herein, violate the Fair Housing Act;
- b. Enjoins defendants Atlantic and Costas Kondylis, their officers, employees, agents, successors, and all other persons in active concert or participation with any of them, from:
  - i. Failing or refusing to bring the dwelling units and public use and common use areas at 33 West End and at other covered multifamily housing complexes that they have designed and constructed into compliance with 42 U.S.C. § 3604(f)(3)(C), and 24 C.F.R. § 100.205;
  - ii. Failing or refusing to take such affirmative steps as may be necessary to restore, as nearly as practicable, persons harmed by their unlawful practices to the position they would have been in but for the discriminatory conduct;

- iii. Designing and/or constructing any 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 24 C.F.R. § 100.205; and
- iv. Failing or refusing to conduct a compliance survey at 33 West End and at other covered multifamily housing complexes that they have designed and constructed to determine whether the retrofits ordered in sub-paragraph (i) above were made properly;

c. Enjoins relief defendant SLO from engaging in conduct that (i) denies access to the common and public use areas and the covered multifamily dwellings at 33 West End under its ownership or management, or (ii) interferes with the taking of any other action necessary to make the retrofits required to bring, in a prompt and efficient manner, the common and public use areas and all the covered multifamily dwellings at 33 West End, including such areas and dwellings under SLO's ownership or management, into compliance with the FHA's accessibility provisions;

d. Awards appropriate monetary damages, pursuant to 42 U.S.C. § 3614(d)(1)(B), to each person harmed by defendants Atlantic's and Costas Kondylis's discriminatory conduct and practices; and

e. Assesses a civil penalty against each of defendant Atlantic and defendant Costas Kondylis in the maximum amount authorized by 42 U.S.C. § 3614(d)(1)(C) to vindicate the public interest.

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

LORETTA LYNCH  
Attorney General of the United States

\_\_\_\_\_/s/\_\_\_\_\_  
VANITA GUPTA  
Principal Deputy Assistant Attorney General  
Civil Rights Division

Date: New York, New York  
January 17, 2017

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