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

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UNITED STATES OF AMERICA,	: <u>COMPLAINT</u>
	:
Plaintiff,	:
	: 17 Civ. 0358
v	:
	:
ALBANESE ORGANIZATION, INC. and its subsidiaries	: ECF Case
and affiliates; NORTH END ASSOCIATES, LLC;	:
and SLCE ARCHITECTS, LLP,	:
	:
Defendants, and	:
	:
RIVER TERRACE ASSOCIATES, LLC; CHELSEA	:
ASSOCIATES, LLC;	:
	:
Relief Defendants	:
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Plaintiff 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, Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (the "Fair Housing Act" or the "FHA"), 42 U.S.C. §§ 3601-3619. As set forth in full below, the United States alleges that Defendants, developers and an architect, have unlawfully discriminated against persons with disabilities under the Fair Housing Act by failing to design and construct the

Verdesian Apartments (“The Verdesian”), a residential apartment complex in Manhattan, so as to be accessible to persons with disabilities, and that this pattern and practice of failing to design and construct dwellings and associated places of public accommodation so as to be accessible to persons with disabilities may extend to other multi-family dwellings.

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. The Verdesian is a residential apartment building located at 211 North End Avenue in New York, New York. The complex consists of a tower with elevator access, and contains 253 rental apartment units and public and common use areas including a leasing office, laundry facilities, a terrace sun deck, a children’s play room, a fitness center, and storage areas for residents.

5. The rental units at The Verdesian 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. The Verdesian 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 Defendants

7. Defendant Albanese Organization, Inc. (“Albanese”) is a New York Domestic Business Corporation and the 100 percent owner of Albanese Development Corporation, which provided development management services in connection with the design and construction of the Verdesian, The Solaire, and The Vanguard Chelsea, and, in that capacity, participated in the design and construction of those buildings.

8. Defendant North End Associates, LLC (“North End”), a New York limited liability company, owns The Verdesian, a residential apartment building located at 211 North End Avenue, New York, New York 10282, and, in that capacity, designed and constructed The Verdesian.

9. Defendant SLCE Architects, LLP (“SLCE”, and, together with Albanese and North End, the “Defendants”), a New York limited liability partnership, drew the architectural plans for The Verdesian and, in that capacity, designed and constructed The Verdesian. Further, James Davidson and Luigi Russo, two partners at SLCE Architects, LLP, were the architects of record for The Verdesian.

10. Relief defendant River Terrace Associates, LLC (“River Terrace”), a New York limited liability company, owns The Solaire, a residential apartment building located at 20 River Terrace, New York, NY 10282. River Terrace is a relief defendant in this action because its participation is necessary to ensure complete relief.

11. Relief defendant Chelsea Associates, LLC (“Chelsea Associates,” and, together with River Terrace, the “Relief Defendants”), a New York limited liability company, owns The Vanguard Chelsea, a residential apartment building located at 77 West

24th Street, New York, New York 100010. Chelsea Associates is a relief defendant in this action because its participation is necessary to ensure complete relief.

Inaccessible Features of The Verdesian

12. The Verdesian, which defendants Albanese, North End, and SLCE designed and constructed, is inaccessible to persons with disabilities.

13. For instance, defendants Albanese, North End, and SLCE designed and constructed the following inaccessible features in The Verdesian:

- a. The intercom panel at the main entrance door is mounted too high to accommodate persons who use wheelchairs;
- b. An excessively high threshold at the rear entrance door interferes with accessibility for persons who use wheelchairs;
- c. A counter in the main lobby desk is too high to accommodate persons who use wheelchairs;
- d. An excessive running slope for the ramp to the leasing office interferes with accessibility for persons who use wheelchairs;
- e. The sign for the leasing office lacks raised-letter Braille for persons with visual impairments;
- f. The force required to operate the door to the lobby unisex bathroom interferes with accessibility for persons with certain disabilities;
- g. Excessively high thresholds at entrances to individual units and at entrances to individual unit terraces interfere with accessible routes for persons who use wheelchairs;

- h. There is insufficient clear opening width of bedroom, bathroom, terrace, and closet doors in individual units;
- i. Kitchens in individual units lack sufficient width to accommodate persons who use wheelchairs;
- j. Kitchen sinks and ranges in individual units lack sufficient clearance for persons who use wheelchairs;
- k. There is insufficient clear floor space within bathrooms in individual units for maneuvering by persons who use wheelchairs;
- l. The toilets in bathrooms in some of the individual units are too close to the adjacent side wall to accommodate persons who use wheelchairs;
- m. The locations of thermostats, light switches, and kitchen electrical outlets in individual units make them inaccessible to persons who use wheelchairs;
- n. The hardware for operating trash chutes interferes with accessibility for persons with certain disabilities;
- o. The locations of the controls for washers and large-capacity dryers in the laundry room interfere with accessibility by persons who use wheelchairs;
- p. The force required to operate the door to the children's play room interferes with accessibility for persons with certain disabilities;
- q. The entrance door to the terrace sun deck lacks sufficient maneuvering clearance for persons who use wheelchairs;

- r. The uneven path to the seating area in the terrace sun deck interferes with the accessible route for persons who use wheelchairs; and
- s. An excessively steep threshold at the entrance to the fitness center interferes with accessibility for persons who use wheelchairs.

14. In light of the inaccessible conditions identified in paragraph 13, above, defendants Albanese, North End, and SLCE failed to comply with applicable State and local design and construction provisions, including New York City Local Law 58, in designing and constructing The Verdesian.

Additional Properties

15. The Solaire is a “covered multifamily dwelling” 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). Defendant Albanese and its subsidiaries and affiliates designed and constructed The Solaire, which may not comply with those requirements.

16. The Vanguard Chelsea is a “covered multifamily dwelling” 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). Defendant Albanese and its subsidiaries and affiliates designed and constructed The Vanguard Chelsea, which may not comply with those requirements.

Fair Housing Act Claims

17. Plaintiff re-alleges and incorporates by reference the allegations set forth in paragraphs 1–16 above.

18. Defendants Albanese, North End, and SLCE violated 42 U.S.C. § 3604(f)(3)(C), and 24 C.F.R. § 100.205(c), by failing to design and construct The Verdesian 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.

19. Defendants Albanese, North End, and SLCE, 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.
- 20. The conduct of defendants Albanese, North End, and SLCE 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
 - b. 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.
- 21. Persons who may have been the victims of the discriminatory housing practices of defendants Albanese, North End, and SLCE are aggrieved persons under 42 U.S.C. § 3602(i), and may have suffered injuries as a result of Defendants' conduct described above.
- 22. Defendants' 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, as alleged herein, violate the Fair Housing Act;
- b. Enjoins Defendants, 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 The Verdesian 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 Defendants' 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 The Verdesian to determine whether the retrofits ordered in paragraph b(i) were made properly;

c. Enjoins relief defendants River Terrace and Chelsea Associates from engaging in conduct that (i) denies access to the common and public use areas and the covered multifamily dwellings at The Solaire and Chelsea Vanguard, or (ii) interferes with the taking of any other action that may be necessary to bring, in a prompt and efficient manner, the common and public use areas and all the covered multifamily dwellings at The Solaire and Chelsea Vanguard into full 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' discriminatory conduct and practices; and

e. Assesses a civil penalty against each Defendant 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 E. LYNCH
Attorney General of the United States

s/ Vanita Gupta
VANITA GUPTA
Principal Deputy Assistant Attorney General
Civil Rights Division

Dated: New York, New York
January 18, 2017

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