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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

UNITED STATES OF AMERICA,	:	
	:	
Plaintiff,	:	Case No. CV _____
	:	
v.	:	
	:	COMPLAINT
GABRIEL NISTLER, SOMMER	:	
NISTLER, ROSS W. ROYLANCE,	:	
PATRICIA ROYLANCE, ROYLANCE &	:	
NISTLER PROPERTIES, LLC,	:	
WERNER-NISTLER PROPERTIES, LLC,	:	
DEREK BROWN, AND DEREK	:	
BROWN CONSULTING, INC.,	:	
	:	
Defendants.	:	

The United States of America alleges as follows:

NATURE OF THE ACTION

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 “FHA”), 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).

3. Venue is proper in this jurisdiction, pursuant to 28 U.S.C. § 1391(b) because the acts and omissions giving rise to the United State's claims occurred in this judicial district and the Defendants either reside or do business in this District.

SUBJECT PROPERTIES

4. Defendant Gabriel Nistler, together with one or more of the Defendants identified in paragraphs 37 to 43 of the Complaint, designed and constructed the 31 multifamily apartment buildings in Montana described in paragraphs 5 to 35 containing a total of 64 ground floor units. The FHA required that the ground floor units, as well as associated public or common use areas, contain specified accessibility features. None of those properties were designed and constructed with all of the required features. The principal accessibility barriers include, but are not limited to, noncompliant pedestrian routes to the entrances of the ground floor units and common use areas such as garages, mail boxes and trash receptacles; abrupt level changes at unit

entrances; lack of accessible garage units and noncompliant accessible parking; and adaptive design and violations in the bathrooms and kitchens of covered units.

5. The residential apartment building located at 1604 Warehouse Ave., Helena, Montana 59601 is a two-story building with two single-story ground floor units and two single-story upper floor units. The property contains public and common use areas that include a detached garage structure with four garage units, parking, trash bins and mail boxes. It was designed and constructed for first occupancy in or after October 2008.

6. The residential apartment building located at 1608 Warehouse Ave., Helena, Montana 59601 is a two-story building with two single-story ground floor units and two single-story upper floor units. The property contains public and common use areas that include a detached garage structure with four garage units, parking, trash bins and mail boxes. It was designed and constructed for first occupancy in or after July 2008.

7. The residential apartment building located at 307 South Warren St., Helena, Montana 59601 is a two-story building with two

single-story ground floor units and two single-story upper floor units.

The property contains public and common use areas that include parking, trash bins and mail boxes. It was designed and constructed for first occupancy after March 13, 1991.

8. The residential apartment building located at 335 South Warren St., Helena, Montana 59601 is a two-story building with two single-story ground floor units and two single-story upper floor units. The property contains public and common use areas that include parking, trash bins and mail boxes. It was designed and constructed for first occupancy after March 13, 1991.

9. The residential apartment building located at 801 East Riggs St., East Helena, Montana 59635 is a two-story building with two single-story ground floor units and two single-story upper floor units. The property contains public and common use areas that include parking, trash bins and mail boxes. It was designed and constructed for first occupancy in or after November 2005.

10. The residential apartment building located at 105 East Lewis St., East Helena, Montana 59635 is a two-story building with two single-story ground floor units and two single-story upper floor units.

The property contains public and common use areas that include parking, trash bins and mail boxes. It was designed and constructed for first occupancy in or after June 2006.

11. The residential apartment building located at 114 East King St., East Helena, Montana 59635 is a two-story building with two single-story ground floor units and two single-story upper floor units. The property contains public and common use areas that include parking, trash bins and mail boxes. It was designed and constructed for first occupancy in or after April 2006.

12. The residential apartment building located at 802 East Main St. (Old Highway 12), East Helena, Montana 59635 is a two-story building with two single-story ground floor units and two single-story upper floor units. The property contains public and common use areas that include parking, trash bins and mail boxes. It was designed and constructed for first occupancy in or after November 2005.

13. The residential apartment building located at 806 East Main St. (Old Highway 12), East Helena, Montana 59635 is a two-story building with two single-story ground floor units and two single-story upper floor units. The property contains public and common use areas

that include parking, trash bins and mail boxes. It was designed and constructed for first occupancy in or after August 2005.

14. The residential apartment building located at 900 East Main St. (Old Highway 12), East Helena, Montana 59635 is a two-story building with two single-story ground floor units and two single-story upper floor units. The property contains public and common use areas that include parking, trash bins and mail boxes. It was designed and constructed for first occupancy in or after July 2005.

15. The residential apartment building located at 906 East Main St. (Old Highway 12), East Helena, Montana 59635 is a two-story building with four single-story ground floor units and four single-story upper floor units. The property contains public and common use areas that include parking, trash bins and mail boxes. It was designed and constructed for first occupancy in or after November 2005.

16. The residential apartment building located at 106 East Dudley St., East Helena, Montana 59635 is a two-story building with two single-story ground floor units and two single-story upper floor units. The property contains public and common use areas that include a detached garage structure with four garage units, parking, trash bins

and mail boxes. It was designed and constructed for first occupancy in or after March 2006.

17. The residential apartment building located at 110 East Dudley St., East Helena, Montana 59635 is a two-story building with two single-story ground floor units and two single-story upper floor units. The property contains public and common use areas that include a detached garage structure with four garage units, parking, trash bins and mail boxes. It was designed and constructed for first occupancy in or after April 2006.

18. The residential apartment building located at 111 East Dudley St., East Helena, Montana 59635 is a two-story building with two single-story ground floor units and two single-story upper floor units. The property contains public and common use areas that include a detached garage structure with four garage units, parking, trash bins and mail boxes. It was designed and constructed for first occupancy in or after May 2006.

19. The residential apartment building located at 114 East Dudley St., East Helena, Montana 59635 is a two-story building with two single-story ground floor units and two single-story upper floor

units. The property contains public and common use areas that include a detached garage structure with four garage units, parking, trash bins and mail boxes. It was designed and constructed for first occupancy in or after February 2006.

20. The residential apartment building located at 118 East Dudley, East Helena, Montana 59635 is a two-story building with two single-story ground floor units and two single-story upper floor units. The property contains public and common use areas that include a detached garage structure with four garage units, parking, trash bins and mail boxes. It was designed and constructed for first occupancy in or after March 2006.

21. The residential apartment building located at 3752 East Old Highway 12, East Helena, Montana 59635 is a two-story building with two single-story ground floor units and two single-story upper floor units. The property contains public and common use areas that include a detached garage structure with four garage units, parking, trash bins and mail boxes. It was designed and constructed for first occupancy after March 13, 1991.

22. The residential apartment building located at 3760 East Old Highway 12, East Helena, Montana 59635 is a two-story building with two single-story ground floor units and two single-story upper floor units. The property contains public and common use areas that include a detached garage structure with four garage units, parking, trash bins and mail boxes. It was designed and constructed for first occupancy after March 13, 1991.

23. The residential apartment building located at 3768 East Old Highway 12, East Helena, Montana 59635 is a two-story building with two single-story ground floor units and two single-story upper floor units. The property contains public and common use areas that include a detached garage structure with four garage units, parking, trash bins and mail boxes. It was designed and constructed for first occupancy after March 13, 1991.

24. The residential apartment building located at 3774 East Old Highway 12, East Helena, Montana 59635 is a two-story building with two single-story ground floor units and two single-story upper floor units. The property contains public and common use areas that include a detached garage structure with four garage units, parking, trash bins

and mail boxes. It was designed and constructed for first occupancy after March 13, 1991.

25. The residential apartment building located at 3782 East Old Highway 12, East Helena, Montana 59635 is a two-story building with two single-story ground floor units and two single-story upper floor units. The property contains public and common use areas that include a detached garage structure with four garage units, parking, trash bins and mail boxes. It was designed and constructed for first occupancy after March 13, 1991.

26. The residential apartment building located at 3790 East Old Highway 12, East Helena, Montana 59635 is a two-story building with two single-story ground floor units and two single-story upper floor units. The property contains public and common use areas that include a detached garage structure with four garage units, parking, trash bins and mail boxes. It was designed and constructed for first occupancy after March 13, 1991.

27. The residential apartment building located at 3802 East Old Highway 12, East Helena, Montana 59635 is a two-story building with two single-story ground floor units and two single-story upper floor

units. The property contains public and common use areas that include a detached garage structure with four garage units, parking, trash bins and mail boxes. It was designed and constructed for first occupancy after March 13, 1991.

28. The residential apartment building located at 3810 East Old Highway 12, East Helena, Montana 59635 is a two-story building with two single-story ground floor units and two single-story upper floor units. The property contains public and common use areas that include parking and trash bins. It was designed and constructed for first occupancy after March 13, 1991.

29. The residential apartment building located at 3818 East Old Highway 12, East Helena, Montana 59635 is a two-story building with two single-story ground floor units and two single-story upper floor units. The property contains public and common use areas that include a detached garage structure with four garage units, parking, trash bins and mail boxes. It was designed and constructed for first occupancy after March 13, 1991.

30. The residential apartment building located at 3826 East Old Highway 12, East Helena, Montana 59635 is a two-story building with

two single-story ground floor units and two single-story upper floor units. The property contains public and common use areas that include a detached garage structure with four garage units, parking, trash bins and mail boxes. It was designed and constructed for first occupancy after March 13, 1991.

31. The residential apartment building located at 3836 East Old Highway 12, East Helena, Montana 59635 is a two-story building with two single-story ground floor units and two single-story upper floor units. The property contains public and common use areas that include a detached garage structure with four garage units, parking, trash bins and mail boxes. It was designed and constructed for first occupancy after March 13, 1991.

32. The residential apartment building located at 3838 East Old Highway 12, East Helena, Montana 59635 is a two-story building with two single-story ground floor units and two single-story upper floor units. The property contains public and common use areas that include a detached garage structure with four garage units, parking, trash bins and mail boxes. It was designed and constructed for first occupancy in after March 13, 1991.

33. The residential apartment building located at 3791 Beechnut St., East Helena, Montana 59635 is a two-story building with two single-story ground floor units and two single-story upper floor units. The property contains public and common use areas that include parking, trash bins and mail boxes. It was designed and constructed for first occupancy after March 13, 1991.

34. The residential apartment building located at 1053 Orion Rd., East Helena, Montana 59602 is a two-story building with two single-story ground floor units and two single-story upper floor units. The property contains public and common use areas that include parking, trash bins and mail boxes. It was designed and constructed for first occupancy after March 13, 1991.

35. The residential apartment building located at 1125 Orion Rd., East Helena, Montana 59602 is a two-story building with two single-story ground floor units and two single-story upper floor units. The property contains public and common use areas that include parking, trash bins and mail boxes. It was designed and constructed for first occupancy after March 13, 1991.

DEFENDANTS

36. Defendant Gabriel Nistler (“Nistler”) is a resident of Helena, Montana. Defendant Nistler was the developer, general contractor and builder for the Subject Properties listed in paragraphs 5 to 35 and thereby participated in their design and construction. In addition, Defendant Nistler owned the following Subject Properties during the time of their design and construction: 1604 and 1608 Warehouse Ave., Helena, MT; 307 South Warren St., Helena, MT; 806 and 900 East Main St. (Old Highway 12), East Helena, MT; 110 and 114 East Dudley St., East Helena, MT; and 3810 East Old Highway 12, East Helena, MT.

37. Defendant Sommer Nistler is a resident of Helena, Montana. Defendant Sommer Nistler owned the Subject Properties at 307 South Warren St., Helena, MT and 114 East Dudley St., East Helena, MT at the time of their design and construction.

38. Defendant Ross W. Roylance (“Roylance”) is a resident of Sheridan, Montana. Defendant Roylance owned the following Subject Properties at the time of their design and construction: 1604 and 1608 Warehouse Ave., Helena, MT; 307 South Warren St., Helena, MT; 801

East Riggs St., East Helena, MT; 806 and 900 East Main St. (Old Highway 12), East Helena, MT; 114 East Dudley St., East Helena, MT, and 3810 East Old Highway 12, East Helena, MT.

39. Defendant Roylance & Nistler Properties, LLC (“Roylance & Nistler Properties”), a Montana limited liability company, has its principal place of business in Sheridan, Montana. Defendant Roylance & Nistler Properties owned and/or developed the following Subject Properties at the time of their design and construction: 1604 and 1608 Warehouse Ave., Helena, MT; 307 and 335 South Warren St., Helena, MT; 802, 806, 900 and 906 East Main St. (Old Highway 12), East Helena, MT; 106, 110, 111, 114 and 118 East Dudley St., East Helena, MT; 105 East Lewis St., East Helena, MT; 114 East King St., East Helena, MT; and 3752, 3760, 3768, 3774, 3782, 3790, 3802, 3818, 3826, 3836 and 3838 East Old Highway 12, East Helena, MT; 3791 Beechnut St., East Helena, MT; and 906 East Old Highway 12, East Helena, MT.

40. Defendant Patricia Roylance is a resident of Sheridan, Montana. Defendant Patricia Roylance owned the following Subject Properties at the time of their design and construction: 307 South Warren St., Helena, MT; 801 East Riggs St., East Helena, MT; 806 and

900 East Main St. (Old Highway 12), East Helena, MT; and 114 East Dudley St., East Helena, MT.

41. Defendant Werner-Nistler Properties, LLC (“Werner-Nistler Properties”), a Montana limited liability company, had its principal place of business in Helena, Montana. Defendant Werner-Nistler Properties owned the following Subject Properties at the time of their design and construction: 1053 and 1125 Orion Dr., East Helena, MT.

42. Defendant Derek Brown (“Brown”), a resident of Helena, Montana is a licensed engineer in the state of Montana. Defendant Brown was responsible for and prepared, at least in part, the architectural design, site engineering plans, floor plans and/or construction documents for many of the following Subject Properties including, but not limited to, 1604 and 1608 Warehouse Ave., Helena, MT; 307 and 335 South Warren St., Helena, MT; 802 East Main St. (Old Highway 12), East Helena, MT; 906 East Main St. (Old Highway 12), East Helena, MT; 106, 110, 111, 114 and 118 East Dudley St., East Helena, MT; 105 East Lewis St., East Helena, MT; and 114 East King St., East Helena, MT. Therefore, Defendant Brown participated in the design and construction of these properties.

43. Defendant Derek Brown Consulting, Inc. (“Brown Consulting”), is a Montana corporation, and has its principal place of business in Helena, Montana. Defendant Brown is the owner and registered agent for Brown Consulting and as such used Defendant Brown Consulting for preparing the architectural design, site engineering plans, floor plans and/or construction documents for the properties listed above in paragraph 42. Therefore, Defendant Brown Consulting participated in the design and construction of these properties.

FACTUAL ALLEGATIONS

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

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

46. The covered multifamily dwellings at the Subject Properties, totaling 64 units, as well as their respective public or common use areas, are subject to the requirements of 42 U.S.C. § 3604(f).

47. The covered multifamily dwellings at the Subject Properties are not designed and constructed in a manner that complies with the

requirements of 42 U.S.C. § 3604(f)(3)(C). The violations of § 3604(f)(3)(C) include the following:

a. the public and common use portions of the dwellings therein are not readily accessible to and usable by individuals with disabilities; and/or

b. not 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 other environmental controls in accessible locations; and/or (iii) usable kitchens and bathrooms such that an individual using a wheelchair can maneuver about the space.

48. The inaccessible features at 1604 Warehouse Ave., Helena, MT include, but may not be limited to, noncompliant pedestrian routes to the entrances of ground floor units and to the garage units; abrupt level changes at unit entrances greater than $\frac{1}{4}$ inch and at the rear patios greater than 4 inches; and a lack of an accessible garage unit and accessible parking.

49. The inaccessible features at 1608 Warehouse Ave., Helena, MT include, but may not be limited to, noncompliant pedestrian routes

to the entrances of ground floor units and to the garage units; abrupt level changes at unit entrances greater than $\frac{1}{4}$ inch and at the rear patios in excess of 4 inches; and a lack of an accessible garage unit and accessible parking.

50. The inaccessible features at 307 South Warren St., Helena, MT include, but may not be limited to, noncompliant pedestrian routes to the entrances of ground floor units, to the garage units, to mailboxes, and to trash receptacles; abrupt level changes at unit entrances greater than $\frac{1}{4}$ inch; a lack of accessible parking; and knob-style hardware at primary entry doors to the ground floor units rather than the required lever-style hardware.

51. The inaccessible features at 335 South Warren St., Helena, MT include, but may not be limited to, noncompliant pedestrian routes to the entrances of ground floor units, to mailboxes and to trash receptacles; abrupt level changes at unit entrances greater than $\frac{1}{4}$ inch; noncompliant accessible parking; and knob-style hardware at primary entry doors to the ground floor units rather than the required lever-style hardware.

52. The inaccessible features at 801 East Riggs St., East Helena, MT include, but may not be limited to, noncompliant pedestrian routes to the entrances of ground floor units and to the trash receptacle; no overhead stairway protection near entrances to covered units; level changes at the rear patios in excess of 4 inches; noncompliant accessible parking; thresholds at the front doors of ground floor units that are greater than $\frac{1}{4}$ inch and not beveled; and knob-style hardware at primary entry doors to the ground floor units rather than the required lever-style hardware. Interior violations in ground floor units include, but are not limited to, kitchens that are inaccessible due to insufficient maneuvering space.

53. The inaccessible features at 105 East Lewis St., East Helena, MT include, but may not be limited to, noncompliant pedestrian routes to the entrances of ground floor units; a lack of accessible parking; and knob-style hardware at primary entry doors to the ground floor units rather than the required lever-style hardware. Interior violations in ground floor units include, but are not limited to, kitchens and bathrooms that are inaccessible due to insufficient maneuvering space.

54. The inaccessible features at 114 East King St., East Helena, MT include, but may not be limited to, noncompliant pedestrian routes to the entrances of ground floor units; a lack of accessible parking; and knob-style hardware at primary entry doors to the ground floor units rather than the required lever-style hardware. Interior violations in ground floor units include, but are not limited to, kitchens and bathrooms that are inaccessible due to insufficient maneuvering space.

55. The inaccessible features at 802 East Main St. (Old Highway 12), East Helena, MT include, but may not be limited to noncompliant pedestrian routes to the entrances of ground floor units, to the mailboxes and to trash receptacles; abrupt level changes at unit entrances greater than $\frac{1}{4}$ inch; a lack of accessible parking; and knob-style hardware at primary entry doors to the ground floor units rather than the required lever-style hardware.

56. The inaccessible features at 806 East Main St. (Old Highway 12), East Helena, MT include, but may not be limited to, noncompliant pedestrian routes to the entrances of ground floor units, including four steps up to the primary entry door; a noncompliant route to the trash receptacle; and a lack of accessible parking. Interior violations in

ground floor units include, but are not limited to, passage doors that lack a nominal clear opening width of 32 inches and bathrooms that are inaccessible due to insufficient maneuvering space.

57. The inaccessible features at 900 East Main St. (Old Highway 12), East Helena, MT include, but may not be limited to, noncompliant pedestrian routes to the entrances of ground floor units, including three steps up to the primary entry door; a noncompliant route to the trash receptacle; and a lack of accessible parking.

58. The inaccessible features at 906 East Main St. (Old Highway 12) in East Helena, include, but may not be limited to, noncompliant pedestrian routes to the entrance of the ground floor units and to the mailboxes; an abrupt level change at one of the unit entrances greater than $\frac{1}{4}$ inch; a lack of accessible parking; and knob-style hardware at primary entry doors to the ground floor units rather than the required lever-style hardware.

59. The inaccessible features at 106 East Dudley St., East Helena, MT include, but may not be limited to, noncompliant pedestrian routes to the entrances of ground floor units; abrupt level changes at unit entrances greater than $\frac{1}{4}$ inch; a lack of accessible

parking; and knob-style hardware at primary entry doors to the ground floor units rather than the required lever-style hardware.

60. The inaccessible features at 110 East Dudley St., East Helena, MT include, but may not be limited to, a noncompliant pedestrian route to the trash receptacle; abrupt level changes at unit entrances greater than $\frac{1}{4}$ inch; a lack of accessible parking; and knob-style hardware at primary entry doors to the ground floor units rather than the required lever-style hardware. Interior violations in ground floor units include, but are not limited to, inaccessible kitchens and bathrooms lacking sufficient maneuvering space.

61. The inaccessible features at 111 East Dudley St., East Helena, MT include, but may not be limited to, noncompliant pedestrian routes to the entrances of ground floor units and to the trash receptacle; and knob-style hardware at primary entry doors to the ground floor units rather than the required lever-style hardware.

62. The inaccessible features at 114 East Dudley St., East Helena, MT include, but may not be limited to, a noncompliant pedestrian route to the trash receptacle; abrupt level changes at unit entrances greater than $\frac{1}{4}$ inch; a lack of accessible parking; and knob-

style hardware at primary entry doors to the ground floor units rather than the required lever-style hardware. Interior violations in ground floor units include, but are not limited to, inaccessible kitchens lacking sufficient maneuvering space.

63. The inaccessible features at 118 East Dudley St., East Helena, MT include, but may not be limited to, a noncompliant pedestrian route to the trash receptacle; abrupt level changes at unit entrances greater than $\frac{1}{4}$ inch; a lack of accessible parking; and knob-style hardware at primary entry doors to the ground floor units rather than the required lever-style hardware. Interior violations in ground floor units include, but are not limited to, inaccessible kitchens lacking sufficient maneuvering space.

64. The inaccessible features at 3752 East Old Highway 12, East Helena, MT include, but may not be limited to, noncompliant pedestrian routes to the entrances of ground floor units; no accessible garage unit; no overhead stairway protection near entrances to covered units; a lack of accessible parking; and knob-style hardware at primary entry doors to the ground floor units rather than the required lever-style hardware.

65. The inaccessible features at 3760 East Old Highway 12, East Helena, MT include, but may not be limited to, noncompliant pedestrian routes to the entrances of ground floor units; no accessible garage unit; no overhead stairway protection near entrances to covered units; a lack of accessible parking; and knob-style hardware at primary entry doors to the ground floor units rather than the required lever-style hardware.

66. The inaccessible features at 3768 East Old Highway 12, East Helena, MT include, but may not be limited to, no accessible garage unit; no overhead stairway protection near entrances to covered units; a lack of accessible parking; and knob-style hardware at primary entry doors to the ground floor units rather than the required lever-style hardware.

67. The inaccessible features at 3774 East Old Highway 12, East Helena, MT include, but may not be limited to, lack of an accessible garage unit; no overhead stairway protection near entrances to covered units; and a lack of accessible parking.

68. The inaccessible features at 3782 East Old Highway 12, East Helena, MT include, but may not be limited to, noncompliant

pedestrian routes to the mailboxes; no accessible garage unit; and a lack of accessible parking.

69. The inaccessible features at 3790 East Old Highway 12, East Helena, MT include, but may not be limited to, noncompliant pedestrian routes to the mailboxes; no accessible garage unit; and a lack of accessible parking.

70. The inaccessible features at 3802 East Old Highway 12, East Helena, MT include, but may not be limited to, noncompliant pedestrian routes to the trash receptacle; level changes at the rear patios in excess of 4 inches; no accessible garage unit; a lack of accessible parking; and knob-style hardware at primary entry doors to the ground floor units rather than the required lever-style hardware.

71. The inaccessible features at 3810 East Old Highway 12, East Helena, MT include, but may not be limited to, noncompliant pedestrian routes to the entrances of ground floor units and to the trash receptacle; abrupt level changes at unit entrances greater than $\frac{1}{4}$ inch; a lack of accessible parking; a lack of a nominal clear opening width of 32 inches at the patio door; and knob-style hardware at primary entry doors to the ground floor units rather than the required lever-style

hardware. Interior violations in ground floor units include, but are not limited to, inaccessible kitchens and bathrooms lacking sufficient maneuvering space and inaccessible kitchen electrical outlets.

72. The inaccessible features at 3818 East Old Highway 12, East Helena, MT include, but may not be limited to, noncompliant pedestrian routes to the entrances of ground floor units and to the trash receptacle; no accessible garage; a lack of accessible parking; and knob-style hardware at primary entry doors to the ground floor units rather than the required lever-style hardware.

73. The inaccessible features at 3826 East Old Highway 12 East Helena, MT include, but may not be limited to, noncompliant pedestrian routes to the entrances of ground floor units and to the mailboxes; no accessible garage unit; noncompliant accessible parking; and knob-style hardware at primary entry doors to the ground floor units rather than the required lever-style hardware.

74. The inaccessible features at 3836 East Old Highway 12, East Helena, MT include, but may not be limited to, noncompliant pedestrian routes to the mail boxes and to the trash receptacle; abrupt level changes at unit entrances greater than $\frac{1}{4}$ inch; no accessible

garage unit; a lack of accessible parking; and knob-style hardware at primary entry doors to the ground floor units rather than the required lever-style hardware.

75. The inaccessible features at 3838 East Old Highway 12, East Helena, MT include, but may not be limited to, noncompliant pedestrian routes to the mail boxes and to the trash receptacle; level changes at the rear patios in excess of 4 inches; no accessible garage unit; lack of accessible parking; and knob-style hardware at primary entry doors to the ground floor units rather than the required lever-style hardware.

76. The inaccessible features at 3791 Beechnut St., East Helena, MT include, but may not be limited to, noncompliant pedestrian routes to the mail boxes and to the trash receptacle; no overhead stairway protection near entrances to covered units; a lack of accessible parking; and knob-style hardware at primary entry doors to the ground floor units rather than the required lever-style hardware.

77. The inaccessible features at 1053 Orion Rd., East Helena, MT include, but may not be limited to, noncompliant pedestrian routes to the entrances of ground floor units, including two steps up to the

primary entry door; a noncompliant route to the storage units and to the trash receptacle; no accessible garage unit; and a lack of accessible parking.

78. The inaccessible features at 1125 Orion Rd., East Helena, MT include, but may not be limited to, noncompliant pedestrian routes to the entrances of ground floor units, including three steps up to the primary entry door; a noncompliant route to the storage units and to the trash receptacle; and a lack of accessible parking.

FAIR HOUSING ACT CLAIMS

79. The United States re-alleges and incorporates by reference the allegations set forth above.

80. The Defendants, through their actions and conduct described above, 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 section 804(f)(1) of the Act, 42 U.S.C. § 3604(f)(1);

b. discriminated against persons in the terms, conditions, or privileges of the sale or rental of 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).

81. The conduct of Defendants 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

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.

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

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

PRAYER FOR RELIEF

WHEREFORE, the United States of America prays that the Court enter an ORDER that:

1. Declares that Defendants' policies and practices, 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 and common use areas at covered multifamily properties designed and constructed by the Defendants into compliance with 42 U.S.C. § 3604(f)(3)(C);
- b. Failing or refusing to conduct Fair Housing Act compliance surveys to determine whether the retrofits ordered in paragraph (a) above or otherwise performed comply with the Fair Housing Act;
- c. 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).

- d. 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.

3. Awards monetary damages to all persons harmed by the Defendants' discriminatory housing practices pursuant to 42 U.S.C. § 3614(d)(1)(B); and

4. Assesses a civil penalty against Defendants in an amount authorized by 42 U.S.C. § 3614(d)(1)(C) in order to vindicate the public interest.

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

Respectfully submitted this 30th day of September 2016.

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