

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
DAVENPORT DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No.
)	
PORTZEN CONSTRUCTION, INC.,)	
GNZ PROPERTIES, INC., SODAROCK)	
PROPERTIES, LLC, DESIGN CENTER)	
ASSOCIATES, INC., and JERRY L. ANDERSON,)	
)	
Defendants.)	
)	

COMPLAINT

The United States of America alleges:

NATURE OF 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, 42 U.S.C. §§ 3601-3619 (“FHA”).

JURISDICTION & VENUE

2. This Court has jurisdiction over this action pursuant to 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) and 42 U.S.C. § 3614(a), because the events or omissions giving rise to the claims alleged in this action occurred in this judicial district.

SUBJECT PROPERTIES

4. Jersey Ridge Manor (“Jersey Ridge”) is a multi-unit apartment complex located at 2030

& 2056 Jersey Ridge Road, Davenport, Iowa 52803. The relevant portion of the complex consists of two buildings with twelve units each. Neither of the buildings has an elevator.

Jersey Ridge was designed and constructed for first occupancy after March 13, 1991.

Each unit at Jersey Ridge is a "dwelling" within the meaning of 42 U.S.C. § 3602(b).

Each of the ground floor units (twelve units across two buildings), are "covered multifamily dwellings" within the meaning of 42 U.S.C. § 3604(f)(7)(B), and are subject to the design and construction requirements of 42 U.S.C. § 3604(f)(3)(C).

5. Kimberly Ridge Manor ("Kimberly Ridge") is a multi-unit apartment complex located at 3440 & 3450 Jersey Ridge Road, Davenport, Iowa 52807. The relevant portion of the complex consists of two buildings with twelve units each. Neither of the buildings has an elevator. Kimberly Ridge was designed and constructed for first occupancy after March 13, 1991. Each unit at Kimberly Ridge is a "dwelling" within the meaning of 42 U.S.C. § 3602(b). Each of the ground floor units (twelve units across two buildings), are "covered multifamily dwellings" within the meaning of 42 U.S.C. § 3604(f)(7)(B), and are subject to the design and construction requirements of 42 U.S.C. § 3604(f)(3)(C).

DEFENDANTS

6. Defendant Portzen Construction, Inc. ("Portzen") is an Iowa corporation with its principal place of business in Dubuque, Iowa. Equity Homes is, or was at times relevant to this action, the builder and/or building contractor for Jersey Ridge and Kimberly Ridge (collectively, the "Subject Properties").
7. Defendant GNZ Properties, Inc. ("GNZ") is an Iowa corporation with its principal place of business in Dubuque, Iowa. GNZ owns Jersey Ridge, and owned Jersey Ridge during

construction.

8. Defendant Sodarock Properties, LLC (“Sodarock”) is an Iowa limited liability company with its principal place of business in Dubuque, Iowa. Sodarock owns Kimberly Ridge, and owned Kimberly Ridge during construction.
9. Defendant Design Center Associates, Inc. (“DCA”) was an Iowa corporation with its principal place of business in Dubuque, Iowa. DCA issued the site, framing, elevation, and floor plans, among others, for Jersey Ridge and Kimberly Ridge.
10. Defendant Jerry L. Anderson (“Anderson”) is a draftsman residing in Dubuque, Iowa, and was an officer of Defendant DCA. Defendant Anderson drafted the site, framing, elevation, and floor plans, among others, for Jersey Ridge and Kimberly Ridge.

INACCESSIBLE DESIGN & CONSTRUCTION

11. Portzen, GNZ, DCA, and Anderson, individually or through their respective agents, have engaged in discriminatory housing practices at Jersey Ridge. These discriminatory housing practices include, but are not limited to, failing to design and construct these properties such 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. the ground floor units contain the following features of adaptive design:
 - (i) an accessible route into and through the dwelling;
 - (ii) electrical outlets, thermostats and other environmental controls in accessible locations; and
 - (iii)

usable kitchens and bathrooms such that an individual using a wheelchair can maneuver about the space.

12. Specifically, Portzen, GNZ, DCA, and Anderson, individually or through their respective agents, engaged in discriminatory housing practices because they designed and constructed Jersey Ridge such that there is/are: no accessible surface and garage parking spaces; no accessible route to garage parking; routes to building entrances have curb ramps without proper texturing, a curb ramp with a running slope in excess of 8.33 percent, unbeveled level changes in excess of 1/4", and cross slopes exceeding 2 percent; no accessible route to the dumpster; building entrance doors with steps and/or excessively high thresholds; insufficient maneuvering clearance on the pull side of the building entrance doors; ground-floor unit entrance doors using knob, rather than level-style, hardware; laundry rooms that require descending a flight of stairs and have inaccessible amenities; interior and patio doors in the ground floor units that lack the requisite 32" nominal clear width; wood patios with a step-down of greater than 1/2"; a concrete patio with a step-down of greater than 4"; thermostats mounted too high above the floor; electrical outlets mounted too close to the floor; and kitchen sinks that lack 30" of clear floor space, among other violations.
13. Portzen, Sodarock, DCA, and Anderson, individually or through their respective agents, have engaged in discriminatory housing practices at Kimberly Ridge. These discriminatory housing practices include, but are not limited to, failing to design and construct these properties such 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. the ground floor units contain the following features of adaptive design:

(i) an accessible route into and through the dwelling; (ii) electrical outlets, thermostats and other environmental controls in accessible locations; and (iii) usable kitchens and bathrooms such that an individual using a wheelchair can maneuver about the space.

14. Specifically, Portzen, Sodarock, DCA, and Anderson, individually or through their respective agents, engaged in discriminatory housing practices because they designed and constructed Jersey Ridge such that there is/are: no accessible surface and garage parking spaces; no accessible route to the garage parking, routes to building entrances have curb ramps without proper texturing, unbeveled level changes in excess of 1/4", and running slopes exceeding 5 percent; no accessible route to the dumpster; building entrance doors with knob-style hardware; insufficient maneuvering clearance on the pull side of the building entrance doors; ground-floor unit entrance doors using knob, rather than level-style, hardware; laundry rooms that require descending a flight of stairs and have inaccessible amenities; patio doors in the ground floor units that lack the requisite 32" nominal clear width; wood patios with a step-down of greater than 1/2"; thermostats mounted too high above the floor; and bathrooms that lack the necessary clear floor space, among other violations.
15. The plans drafted by Defendant Anderson and issued by Defendant DCA included

accessibility barriers in violation of the FHA. Defendants Portzen, GNZ, and Sodarock relied on these plans to construct Jersey Ridge and Kimberly Ridge.

16. Defendants, through the actions referred to in paragraphs 11 – 15, have:
 - a. Discriminated in the rental of, or otherwise made unavailable or denied, dwellings to renters because of handicap, 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 handicap, in violation of 42 U.S.C. § 3604(f)(2); and
 - c. Discriminated in the rental of, or otherwise made unavailable or denied, dwellings to renters because of handicap by failing to design and construct covered multifamily dwellings with the required accessibility features, in violation of 42 U.S.C. § 3604(f)(3).
17. The Defendants may have designed and constructed other multifamily housing complexes that are subject to the FHA's accessibility requirements.
18. The conduct of the Defendants described in the preceding paragraphs 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 denial raises an issue of general public importance.
19. There may be victims of the Defendants' discriminatory actions and practices who are aggrieved persons as defined in 42 U.S.C. § 3602(i). These persons may have suffered actual injury and damages as a result of the above actions and practices.

20. The discriminatory actions of the Defendants were intentional, willful, and taken in disregard for the rights of others.

PRAYER FOR RELIEF

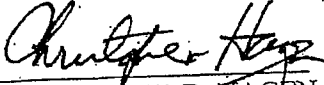
WHEREFORE, the United States prays that the Court enter an order that:

1. Declares that the Defendants' policies, practices, and conduct, as alleged herein, violate the Fair Housing Act;
2. Declares that the Defendants have engaged in a pattern or practice of resistance to the full enjoyment of rights granted by the Fair Housing Act, and that a group of persons has been denied rights granted by the Fair Housing Act and that such denial raises an issue of general public importance;
3. 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 ground floor units and public use and common use areas at the Subject Properties 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, victims of the Defendants' unlawful practices to the position they would have been in but for the discriminatory conduct; and
 - 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);
4. Awards monetary damages pursuant to 42 U.S.C. § 3614(d)(1)(B), to all persons harmed


by the Defendants' discriminatory practices.

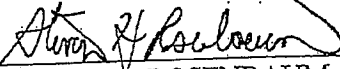
The United States further prays for such additional relief as the interests of justice may require.


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Dated: September 30, 2009