

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION

FILED

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 SUMMERLAND HEIGHTS III, L.P.; )  
 SUMMERLAND HEIGHTS III GP, L.L.C.; )  
 CEDERQUIST, RODRIGUEZ, RIPLEY P.C.; )  
 BOWMAN CONSULTING GROUP, LTD.; )  
 AND MARLYN DEVELOPMENT )  
 CORPORATION. )  
 )  
 Defendants. )

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CLERK US DISTRICT COURT  
ALEXANDRIA, VIRGINIA

Civil Action No. 1:09cv46-Jca/tcb

**CIVIL COMPLAINT**

The United States of America alleges:

1. This action is brought by the United States to enforce Title VIII of the Civil Rights Act of 1968 (the "Fair Housing Act"), as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C. §§ 3601-3619, and Title III of the Americans with Disabilities Act of 1990 (the "ADA"), 42 U.S.C. §§ 12181-12189.

**JURISDICTION AND VENUE**

2. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331 and 1345, 42 U.S.C. § 3614(a), and 42 U.S.C. § 12188(b)(1)(B). Venue is proper in this judicial district pursuant to 42 U.S.C. § 1391(b), because the events giving rise to this action occurred in this judicial district.

### **SUBJECT PROPERTY**

3. The Crossings at Summerland Apartments is a rental property located at 13701 Keelingwood Circle, Woodbridge, Virginia. There are four three-story residential buildings in the complex, and a separate rental office/clubhouse. Of the total 126 dwelling units in the complex, 36 are ground floor units. Certificates of occupancy for the four residential buildings were issued between April 11, 2003 and May 30, 2003. The residential buildings were designed and constructed for first occupancy after March 13, 1991. A certificate of occupancy for the rental office/clubhouse was issued on August 20, 2003. The rental office/clubhouse was designed and constructed for first occupancy after January 26, 1993.

4. The Crossings at Summerland Apartments is a "dwelling" within the meaning of 42 U.S.C. § 3602(b).

5. All of the 36 ground floor units at the Crossings at Summerland Apartments are "covered multi-family dwellings" within the meaning of 42 U.S.C. § 3604(f)(7)(B), and are subject to the accessibility requirements of 42 U.S.C. § 3604(f)(3)(C).

6. The rental office at the Crossings at Summerland Apartments is a public accommodation within the meaning of 42 U.S.C. § 12181(7). It is subject to the requirements of 42 U.S.C. §§ 12181-12183.

### **THE DEFENDANTS**

7. Summerland Heights III, L.P., is an owner of the Crossings at Summerland Apartments, and was involved in the development and construction of the Crossings at Summerland Apartments. Summerland Heights III, L.P., was organized under the laws of the State of Virginia and has its principal place of business in Norfolk, Virginia.

8. Summerland Heights III GP, L.L.C., is a developer of the Crossings at Summerland Apartments, and was involved in the development and construction of the Crossings at Summerland Apartments. Summerland Heights III GP, L.L.C., was organized under the laws of the State of Virginia and has its principal place of business in Norfolk, Virginia.

9. Cederquist, Rodriguez, Ripely, P.C. is an architectural firm licensed to do business in the State of Virginia with its principal place of business in Norfolk, Virginia. It was retained by Summerland Heights III, L.P., to design the Crossings at Summerland Apartments.

10. Bowman Consulting Group, Ltd. is an engineering firm licensed to do business in the State of Virginia, with its principal place of business in Chantilly, Virginia. It was retained by Summerland Heights III, L.P., to design the Crossings at Summerland Apartments.

11. Marlyn Development Corporation was the general contractor for the Crossings at Summerland Apartments. It was responsible for the design and/or the design and construction of the Crossings at Summerland Apartments. Marlyn Development Corporation was organized under the laws of the State of Virginia and has its principal place of business in Virginia Beach, Virginia.

#### COUNT I

12. The allegations of paragraphs 1-11 are hereby incorporated by reference.

13. Defendants Summerland Heights III, L.P., Summerland Heights III GP, L.L.C., Cederquist, Rodriguez, Ripely, P.C., Bowman Consulting Group, Ltd., and Marlyn Development Corporation, have failed to design and construct the Crossings at Summerland Apartments so that:

(a) the public use and common use portions of the covered multi-family dwellings

are readily accessible to and usable by individuals with disabilities; and

(b) all of the ground floor units contain the following features; (i) an accessible route into and through the dwelling; (ii) reinforcements in bathroom walls to allow later installation of grab bars; and (iii) usable kitchens and bathrooms such that an individual using a wheelchair can maneuver about the space.

14. Defendants may have designed and constructed other multi-family housing complexes for first occupancy after March 13, 1991, which are also subject to the Fair Housing Act's accessibility requirements.

15. Defendants, through the actions referred to in the preceding paragraphs, 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) failed to design and construct dwellings in compliance with the accessibility and adaptability features mandated by 42 U.S.C. § 3604(f)(3)(C).

16. The conduct of the 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; 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.

17. Persons who have been the victims of defendants' discriminatory housing practices are aggrieved persons as defined by 42 U.S.C. § 3602(i) and may have suffered injuries as a result of defendants' conduct as described in this count.

18. Defendants' conduct as described in this count was intentional, willful and taken in disregard for the rights of others.

## COUNT II

19. The allegations of paragraphs 1 through 18 are hereby realleged and incorporated by reference.

20. The rental office of the Crossings at Summerland Apartments described in paragraph 3 is a public accommodation within the meaning of Section 301(7)(E) of the Americans with Disabilities Act, 42 U.S.C. § 12181(7)(E).

21. The rental office and other public accommodations of the Crossings at Summerland Apartments described in paragraph 3 were designed and constructed for first occupancy after January 26, 1993.

22. Defendants Summerland Heights III, L.P., and Summerland Heights III GP, L.L.C., failed to design and construct the Crossings at Summerland Apartments so that the rental office is readily accessible to and usable by individuals with disabilities, as required by 42 U.S.C. § 12183(a)(1) and the Department of Justice's regulations implementing Title III of the ADA, 28 C.F.R. Part 36, including the Standards for Accessible Design.

23. Defendants may have designed and constructed the rental offices and the public accommodations at other multi-family housing complexes that are subject to the ADA's accessibility requirements.

24. The conduct of these defendants described in the preceding paragraphs constitutes:

(a) a pattern or practice of discrimination within the meaning of 42 U.S.C.

§ 12188(b)(1)(B)(i) and 28 C.F.R. § 36.503(a); and

(b) unlawful discrimination that raises an issue of general public importance within the meaning of 42 U.S.C. § 12188(b)(1)(B)(ii) and 28 C.F.R. § 36.503(b).

25. Persons who have been the victims of defendants' discriminatory housing practices are aggrieved persons as defined by 42 U.S.C. § 12188(b)(2)(B) and may have suffered injuries as a result of defendants' conduct as described in this count.

#### **PRAYER FOR RELIEF**

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

1. Declares that the policies and practices of defendants alleged herein violate the Fair Housing Act, and that the policies and practices of defendants, Summerland Heights III, L.P. and Summerland Heights III GP, L.L.C., alleged herein violate the Americans with Disabilities Act;

2. 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 at the Crossings at Summerland Apartments into compliance with 42 U.S.C. § 3604(f)(3)(C);

(b) failing or refusing to bring the public use and common use areas at the Crossings at Summerland Apartments into compliance with 42 U.S.C. § 3604(f)(C)(3);

3. Enjoins defendants Summerland Heights III, L.P., Summerland Heights III GP, L.L.C., Cederquist, Rodriguez, Ripely, P.C., Bowman Consulting Group, Ltd., and the Marlyn Development Corporation, their officers, employees, agents, successors and all other persons in

active concert or participation with any of them from failing or refusing to bring the rental offices and any other public accommodations at the Crossings at Summerland Apartments into compliance with 42 U.S.C. § 12183(a)(1), 28 C.F.R. §§ 36.401 and 36.406, and 28 C.F.R. Part 36, Appendix A;

4. 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 take such affirmative steps as may be necessary to restore, as nearly as practicable, the victims of the defendants' unlawful practices to the position they would have been in but for the discriminatory conduct;

(b) designing or constructing covered multi-family dwellings in the future that do not contain the accessibility and adaptability features required by 42 U.S.C. § 3604(f)(3)(C); and

5. Enjoins defendants Summerland Heights III, L.P., Summerland Heights III GP, L.L.C., Cederquist, Rodriguez, Ripely, P.C., Bowman Consulting Group, Ltd., and the Marlyn Development Corporation, their officers, employees, agents, successors and all other persons in active concert or participation with any of them from designing or constructing public accommodations in the future that are not readily accessible to and usable by individuals with disabilities, as required by 42 U.S.C. § 12183(a)(1), 28 C.F.R. §§ 36.401 and 36.406, and 28 C.F.R. Part 36, Appendix A.

6. Awards appropriate monetary damages, pursuant to 42 U.S.C. § 3614(d)(1)(B) and 42 U.S.C. § 12188(b)(2)(B), to each person aggrieved by the discriminatory housing practices of defendants;

7. Assesses a civil penalty against each defendant that was involved in the design and/or construction of Crossing at Summerland Apartments, including Summerland Heights III, L.P., Summerland Heights III GP, L.L.C., Cederquist, Rodriguez, Ripely, P.C., Bowman Consulting Group, Ltd., and Marlyn Development Corporation, in order to vindicate the public interest, pursuant to 42 U.S.C. § 3614(d)(1)(C), 28 C.F.R. § 85.3(b)(3), and 42 U.S.C. § 12188(b)(2)(C).

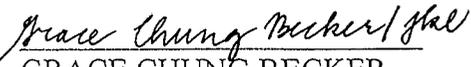
The United States further prays for such additional relief as the interests of justice may require.

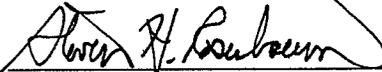
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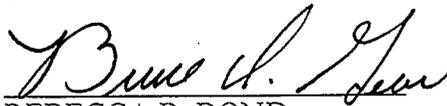
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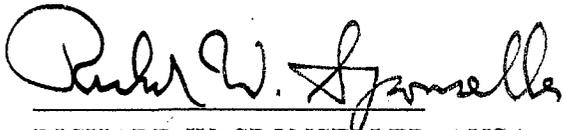
  
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7. Assesses a civil penalty against each defendant that was involved in the design and/or construction of Crossing at Summerland Apartments, including Summerland Heights III, L.P., Summerland Heights III GP, L.L.C., Cederquist, Rodriguez, Ripely, P.C., Bowman Consulting Group, Ltd., and Marlyn Development Corporation, in order to vindicate the public interest, pursuant to 42 U.S.C. § 3614(d)(1)(C), 28 C.F.R. § 85.3(b)(3), and 42 U.S.C. § 12188(b)(2)(C).

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

Respectfully submitted,

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