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CLERK U.S. DISTRICT COURT  
CENTRAL DIST. OF CALIF.  
LOS ANGELES

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20 IN THE UNITED STATES DISTRICT COURT  
21 FOR THE CENTRAL DISTRICT OF CALIFORNIA  
22 EASTERN DIVISION

23 UNITED STATES OF AMERICA, )  
24 Plaintiff, )  
25 v. )  
26 CITY OF SAN JACINTO, CALIFORNIA )  
27 Defendant. )

**EDCV12-1966** VAP/SPX

Case No.

**COMPLAINT**

28 The United States of America alleges as follows:

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Jurisdiction

1. This action is brought by the United States to enforce the provisions of 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 *et seq.*, Title II of the Americans with Disabilities Act (“the ADA”), § 202, 42 U.S.C. § 12132 *et seq.*, and the regulations implementing Title II, 28 C.F.R. Part 35.

2. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331 and 1345, 42 U.S.C. § 3614(a) and (b), and 42 U.S.C. § 12133.

3. Venue is proper under 28 U.S.C. § 1391(b) because the events giving rise to the United States’ claims occurred in the Central District of California.

The Defendant

4. Defendant City of San Jacinto (“the City”) is a municipal corporation located in Riverside County, California, established and organized under the laws of the State of California.

5. The City of San Jacinto, through its Mayor and City Council, exercises zoning and land use authority over land within its boundaries. The City’s Code of Ordinances contains the City’s zoning and land use regulations.

6. The City’s Zoning Code divides the City into numerous zoning districts, including four residential districts: single family residential districts (R-1), two family residential districts (R-2), multi-family residential districts (R-3), and “light agricultural” districts (A).

7. The Zoning Code defines “family” as “[a]n individual or two (2) or more persons related by blood, marriage or legal adoption, or a group of not more than 6 persons who are not related living together as a single house-keeping unit in a dwelling unit.”

The Complainants

8. Rajeeyah Bilal-Varney is a resident of the Central District of California. Since May of 2007, she and her husband have operated a group home for persons with mental and other disabilities,

1 including schizophrenia and bipolar disorder, at 1835 Rogers Way in a single-family (R-1) residential  
2 zone in San Jacinto.

3 9. Aurora Beltran is a resident of the Central District of California and, since 2005, has  
4 operated a group home for persons with mental and other disabilities at 325 E. 3<sup>rd</sup> Street in a single-  
5 family (R-1) residential zone in San Jacinto.

6 10. The disabled residents of the Rogers Way and 3<sup>rd</sup> Street homes operate as family units and  
7 share meals and household responsibilities. They are responsible for their own medications, do not  
8 receive medical treatment or counseling on the premises, and do not undergo drug or alcohol testing on  
9 site. A number of tenants at both homes have, over the years, arranged for State and County-funded  
10 supportive services delivered to the home by third-parties, such as training with respect to personal  
11 care.  
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13 Regulation of "group homes" under the City's Zoning Code

14 11. On July 10, 2008, the City's Planning Commission issued a staff report recommending that  
15 the City Council amend the City's Zoning Code by approving Ordinance 08-14 ("the Ordinance").  
16 The Ordinance was passed by unanimous vote of the Council on September 4, 2008, and became  
17 effective on October 3, 2008.  
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19 12. The Ordinance effected three changes to the City's Zoning Code. First, it amended the  
20 Code's definition of "group homes" to "[a] residence or dwelling, other than a hotel, wherein two (2)  
21 or more rooms, with or without individual cooking facilities, are rented to individuals under separate  
22 rental agreements or leases, either written or oral, whether or not an owner, agent or rental manager is  
23 in residence, in order to preserve the residential character of the neighborhood."  
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25 13. Second, the Ordinance created a separate category of congregate living known as the  
26 "organizational house." The term is defined by the Ordinance as "[a] residential lodging facility  
27 operated by a membership organization, such as a school, convent, monastery, or religious  
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1 organization, and includes dormitories, fraternities, sororities and other institutionally-operated student  
2 housing.

3 14. Third, the Ordinance specifically exempted certain licensed congregate living facilities,  
4 such as “community care facilities,” from its definition of “group homes,” making those with six or  
5 fewer residents permitted uses in residential zones.

6 15. Under the Zoning Code as amended by the Ordinance, group homes that are not required to  
7 be licensed by the State are not permitted uses in any zoning district within the City. Such homes may  
8 operate in multi-family (R-3) zones if they seek and are granted a conditional use permit.

9 16. The City adopted the Ordinance to address purported problems with group homes for  
10 persons with disabilities.

11 17. The Ordinance was enacted at least in part because of complaints about group homes from  
12 members of the community that the City knew, or should have known, were based on the disability of  
13 the homes’ residents.

14 18. On November 4, 2008, approximately a month after the Ordinance was enacted, the City  
15 conducted an early morning sweep of nineteen homes, including the Bilal-Varney home located at  
16 1835 Rogers Way, to determine, among other things, whether they were “group homes” for persons  
17 with disabilities operating in residential zones in violation of Ordinance 08-14.

18 19. City officials, including the City Attorney and representatives from the City’s Code  
19 Enforcement, Public Works and Police Departments, and Riverside County officials under contract to  
20 and acting as agents for the City, including armed and uniformed sheriff’s deputies, and uniformed fire  
21 department officials, appeared at the homes unannounced.

22 20. After inquiring on the threshold as to the nature of the homes, the officials entered those  
23 they determined to be group homes for persons with disabilities, separated the residents with  
24 disabilities and interrogated them individually from a prepared questionnaire targeted to persons with  
25 mental disabilities. The questions included why the residents were in the home; whether they were or  
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1 had ever been drug addicts or alcoholics; whether they were suffering from any form of mental illness,  
2 and if so, what type; whether they were taking "psych" medications, and if so, what kind; whether  
3 they were in treatment programs; whether they or other residents were currently using illegal drugs or  
4 alcohol; whether they were on parole or probation; whether they were registered sex offenders;  
5 whether they were collecting SSI or disability benefits; and whether medical treatment, counseling and  
6 drug treatment were provided on site.

7  
8 21. Of the homes included in the sweep, at least fifteen were homes for persons with mental  
9 disabilities, including the home at 1835 Rogers Way. The officials did not inspect, or interrogate the  
10 residents of the four homes they determined were not group homes for persons with disabilities.

11 22. From the time the Ordinance was adopted through at least September 2011, the City  
12 brought no enforcement actions under the Ordinance against any group homes that were not occupied  
13 by persons with disabilities.

14 23. Each of the group homes covered in the sweep is a dwelling within the meaning of 42  
15 U.S.C. § 3602(b), and current and former residents of those homes are "handicapped" within the  
16 meaning of 42 U.S.C. § 3602(h).

17  
18 24. As a result of the Ordinance and the City's enforcement activities, some group homes for  
19 persons with disabilities closed. Others that continue to operate in residential zones, including the  
20 home at 1835 Rogers Way, have been repeatedly visited by the City and cited for violations of the  
21 Ordinance and other regulations. The City has issued fines to owners of group homes for persons with  
22 disabilities ranging from \$100 to \$1,000 per day.

23  
24 25. Prior to enactment of the Ordinance, City officials informed at least one individual that she  
25 would have to close a home for five persons with mental disabilities on Garcia Drive in San Jacinto  
26 because City law prohibited the operation of the home in a residential zone. The home was closed  
27 after repeated contacts by City officials who claimed the home was being operated as an illegal group  
28 home.

1           26. After the sweep, the City continued to cite providers of group homes for persons with  
2 disabilities, including some not covered in the sweep, for “illegal” operation of a group home in a  
3 residential zone. The home operated by complainant Aurora Beltran at 325 E. 3<sup>rd</sup> Street is one such  
4 home.

5           27. Group homes for persons with disabilities included in the sweep, as well as those targeted  
6 by the City for enforcement activities after the sweep, were occupied by as few as three disabled  
7 tenants at a time. The City’s actions against group homes for persons with disabilities, including the  
8 issuance of citations for the operation of illegal group homes, has continued into 2012.

9           28. The Garcia Drive home, the 325 E. 3<sup>rd</sup> Street home and other group homes investigated  
10 and/or cited by the City before and after the sweep, are dwellings within the meaning of 42 U.S.C. §  
11 3602(b), and current and former residents of those homes are “handicapped” within the meaning of 42  
12 U.S.C. § 3602(h).

13           29. Based on the sweep and other City actions, Ms. Bilal-Varney filed a complaint with the  
14 Department of Housing and Urban Development (“HUD”) on or about December 2, 2008, alleging  
15 discrimination in housing on the basis of disability in violation of the Fair Housing Act. On or about  
16 July 6, 2009, HUD referred the complaint to the Department of Justice pursuant to 42 U.S.C. § 3614(a)  
17 of the Act.

18           30. Based on enforcement and other activities by the City, Ms. Beltran filed a complaint with  
19 HUD pursuant to 42 U.S.C. § 3610(a) of the Fair Housing Act on or about June 9, 2012, alleging  
20 discrimination in housing on the basis of disability. On or about June 12, 2012, HUD referred the  
21 complaint to the Department of Justice pursuant to 42 U.S.C. § 3610(g)(2)(C) of the Act.  
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Requests for Reasonable Accommodation

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2           31. On May 16, 2011, complainant Rajeeyah Bilal-Varney sent a request to the City for a  
3 reasonable accommodation to continue operating the group home at 1835 Rogers Way.

4           32. On March 29, 2011, complainant Aurora Beltran sent a request for a reasonable  
5 accommodation to continue operating the group home at 325 E. 3<sup>rd</sup> Street.

6           33. On April 30, 2012, the provider of a group home for persons with disabilities on De Anza  
7 Drive in San Jacinto requested that her home be treated by the City as a single-family dwelling “for all  
8 purposes.”  
9

10           34. The City informed each of the providers that it did not have a process established by  
11 ordinance for deciding reasonable accommodation requests.

12           35. The City conditioned approval of the providers’ requests on the acceptance of onerous,  
13 unjustified restrictions and failed to address legitimate inquiries of counsel for the providers, thereby  
14 effectively denying the requests.

15           36. The City of San Jacinto’s zoning regulations and enforcement of those regulations impose  
16 conditions and prohibitions on housing for persons with disabilities that are not imposed on housing  
17 for an equal or greater number of persons without disabilities.  
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19           37. Persons with disabilities are more likely to live in congregate living facilities than are  
20 persons without disabilities in and around San Jacinto.

21           38. The City’s actions as described herein have the intent and effect of discriminating against  
22 providers and residents of housing for persons with disabilities.  
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**COUNT I**  
**Fair Housing Act**

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2 39. The allegations in paragraphs 1-38, above, are incorporated herein by reference.

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4 40. By the actions set forth above, the City has:

5 a. made housing unavailable on the basis of disability in violation of 42 U.S.C. §  
6 3604(f)(1);

7 b. imposed different terms, conditions, or privileges in housing on the basis of disability  
8 in violation of 42 U.S.C. § 3604(f)(2);

9 c. failed or refused to make reasonable accommodations in rules, policies, practices, or  
10 services, when such accommodations may have been necessary to afford persons with  
11 disabilities an equal opportunity to use and enjoy a dwelling in violation of 42 U.S.C. §  
12 3604(f)(3)(B); and

13 d. coerced, intimidated, threatened, or interfered with persons in the exercise or  
14 enjoyment of, or on account of their having exercised or enjoyed, their rights under the  
15 Fair Housing Act, in violation of 42 U.S.C. § 3617.  
16

17 41. The conduct of the City as described above constitutes (a) a pattern or practice of  
18 resistance to the full enjoyment of rights granted by the Fair Housing Act, 42 U.S.C. § 3601-3619, or  
19 (b) a denial of rights to a group of persons that raises an issue of general public importance under 42  
20 U.S.C. § 3614(a).  
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22 42. There are persons who have been injured by Defendant's discriminatory actions and  
23 practices who are aggrieved persons as defined in 42 U.S.C. § 3602(i).

24 43. The Defendant's discriminatory actions were intentional, willful, and taken in disregard of  
25 the rights of others.  
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**COUNT II**  
**Americans with Disabilities Act**

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2 44. The allegations in paragraphs 1-43, above, are incorporated herein by reference.

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4 45. The United States Department of Justice has notified the City in writing that based on its  
5 investigation, it had determined that enforcement action was warranted because of violations of the  
6 ADA. Resolution of the United States' claims has not been achieved by voluntary means. All  
7 conditions precedent to the filing of this Complaint have occurred or been performed.

8 46. The United States Department of Justice is the federal agency responsible for  
9 administering and enforcing Title II of the ADA, 42 U.S.C. §§ 12131 *et seq.*

10 47. The Defendant, through the actions described above, has:

- 11 a. excluded persons with disabilities from participation in and denied them the benefits  
12 of the services, programs, or activities of a public entity, in violation of 42 U.S.C. §  
13 12132 and 28 C.F.R. § 35.130; and  
14  
15 b. failed to make a reasonable modification in its policies, practices, or procedures,  
16 which resulted in the Defendant excluding persons with disabilities from participating  
17 in and denying them the benefits of the services, programs, or activities of the City of  
18 San Jacinto in violation of 42 U.S.C. § 12132 and 28 C.F.R. § 35.130(b)(7).

19  
20 48. The Defendant's discriminatory actions were intentional, willful, and taken in disregard of  
21 the rights of others.

22 49. Persons who have been subjected to Defendant's conduct have suffered and will continue  
23 to suffer irreparable harm in the absence of relief.

**PRAYER FOR RELIEF**

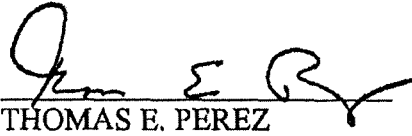
WHEREFORE, the United States prays that the Court enter an ORDER that:

1. Declares that the actions of the City of San Jacinto described above constitute violations of the Fair Housing Act, as amended, 42 U.S.C. §§ 3601 *et seq.*, and Title II of the Americans with Disabilities Act, 42 U.S.C. §§ 12131 *et seq.*;
2. Enjoins the City of San Jacinto, its agents, employees, assigns, successors, and all other persons in active concert or participation with them, from enforcing its Zoning Code in a way that discriminates on the basis of disability in violation of the Fair Housing Act, as amended, 42 U.S.C. §§ 3601 *et seq.*, and Title II of the Americans with Disabilities Act, 42 U.S.C. §§ 12131 *et seq.* and its accompanying regulations;
3. Enjoins the City of San Jacinto, its agents, employees, assigns, successors, and all other persons in active concert or participation with them, from failing to make reasonable accommodations in their policies, practices, rules, or services, as required by the Fair Housing Act and Americans with Disabilities Act, including accommodations that permit the establishment and operation of housing for persons with disabilities pursuant to 42 U.S.C. § 3604(f)(3)(B), 42 U.S.C. § 12132, and 28 C.F.R. § 35.130(b)(7);
4. Awards compensatory damages in an appropriate amount to aggrieved persons for injuries suffered as a result of the City of San Jacinto's failure to comply with the requirements of the Fair Housing Act and Americans with Disabilities Act; and

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2 5. Assesses a civil penalty against the City of San Jacinto in an amount authorized by  
3 42U.S.C. § 3614(d)(1)(C), in order to vindicate the public interest.

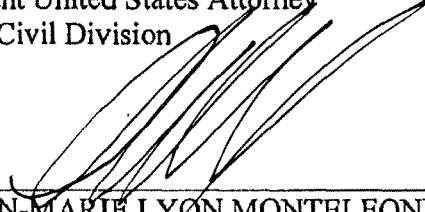
4 The United States further prays for such additional relief as the interests of justice may require.  
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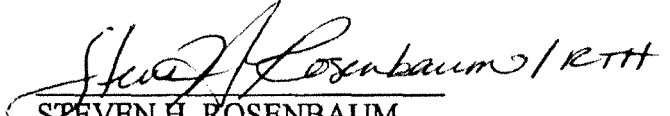
7 ERIC H. HOLDER, JR.  
8 Attorney General

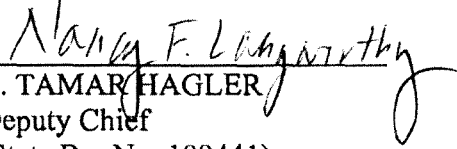
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