

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF GEORGIA  
SAVANNAH DIVISION

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 ) Civil Action No.  
 v. )  
 )  
 GENESIS DESIGNER HOMES, LLC, GENESIS )  
 REAL ESTATE GROUP, LLC, THOMAS AND )  
 HUTTON ENGINEERING CO., MALPHRUS )  
 CONSTRUCTION CO., and STONELAKE )  
 TOWNHOMES PROPERTY OWNERS )  
 ASSOCIATION, INC., )  
 )  
 Defendants. )  
 \_\_\_\_\_ )

**COMPLAINT**

The United States of America alleges:

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”), 42 U.S.C. §§ 3601 – 3619.

**JURISDICTION AND VENUE**

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

3. Venue is proper under 28 U.S.C. 1391(b) because the events giving rise to the United States’ allegations occurred in the Southern District of Georgia, the subject properties are located in this District, and Defendants do business in this District.

**SUBJECT PROPERTIES**

4. Stonelake Townhomes (“Stonelake”) is a condominium property located at Berwick Plantation, 89 Travertine Circle, in Savannah, Georgia.

5. Highlands Crossing (“Highlands”) is a condominium property that is under construction and is located at Godley Station, 15 Falkland Avenue, in Savannah, Georgia.

#### **DEFENDANTS**

6. Defendant Genesis Designer Homes is an active Georgia Limited Liability Corporation (LLC), with its principal place of business at 41 Park of Commerce Way, Building 2, Savannah, Georgia 31405. Defendant Genesis Designer Homes is the developer for the subject properties described above in paragraphs 4 - 5 (the “Subject Properties”). In addition, Defendant Genesis Designer Homes was or is an owner of the Subject Properties, and was or is involved in the design and construction of the Subject Properties.

7. Defendant Genesis Real Estate Group, is an active Georgia Corporation Limited Liability Corporation, (LLC), with its principal place of business at 41 Park of Commerce Way, Suite 308, Savannah, Georgia 31405. Defendant Genesis Real Estate Group is the developer for Highlands Crossing. In addition, Genesis Real Estate Group has or had an ownership interest in Highlands Crossing, and was or is involved in the design and construction of Highlands Crossing.

8. Defendant Thomas and Hutton Engineering Co. is an active for profit Georgia corporation with its principal place of business at 50 Park of Commerce Way, Post Office Box 2727, Savannah, Georgia 31402. Thomas and Hutton was or is involved in the design and construction of the Subject Properties.

9. Defendant Malphrus Construction Company is an active Georgia for profit corporation with its principal place of business at Post Office Box 21299, Hilton Head Island,

South Carolina 29925. Malphrus was or is involved in the design and construction of the Subject Properties.

10. Defendant Defendant Stonelake Townhomes Property Owners Association, Inc., is an active, non-profit Georgia corporation with its principal place of business at Berwick Plantation, 89 Travertine Circle, Savannah, Georgia 31401. Stonelake Townhomes Property Owners Association is a homeowners' association for the Stonelake property and has an ownership and management interest in the Stonelake property. It is a necessary party to this lawsuit in whose absence complete relief cannot be afforded to the United States.

### **FACTUAL ALLEGATIONS**

11. The Subject Properties described above were designed and constructed for first occupancy after March 13, 1991.

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

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

14. The covered multifamily dwellings at the Subject Properties are subject to the requirements of 42 U.S.C. § 3604(f).

15. The covered multifamily dwellings at the Subject Properties are not designed and constructed in a manner that—

- a. the public use and common use portions of the dwellings therein are readily accessible to and usable by handicapped persons;
- b. all doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by handicapped persons in

wheelchairs;

- c. all premises within such dwellings contain the following features of adaptive design:
  - (I) accessible routes into and through the dwellings;
  - (II) light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;
  - (III) reinforcements in bathroom walls to allow later installation of grab bars; and
  - (IV) usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

16. The Defendants described above in Paragraphs 6 – 9 (the “Design and Construct Defendants”) may have designed and constructed other multifamily housing complexes for first occupancy after March 13, 1991, which are also subject to the Fair Housing Act’s accessibility requirements.

### **FAIR HOUSING ACT CLAIMS**

17. The allegations of Paragraphs 1 – 16 are hereby incorporated by reference.

18. The Design and Construct Defendants have failed to design and construct covered multifamily dwellings in the manner set forth in 42 U.S.C. §§ 3604(f)(3)(C)(I) – (iii).

19. The Design and Construct Defendants’ conduct described above violates 42 U.S.C. §§ 3604(f)(1), (f)(2), and (f)(3)(C).

20. The Design and Construct Defendants’ conduct 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 raises an issue of general public importance.

21. Persons who are the victims of the Design and Construct Defendants' discriminatory housing practices are aggrieved persons as defined in 42 U.S.C. § 3602(i), and have suffered injuries as a result of the conduct described above.

22. The Design and Construct Defendants' conduct described above was intentional, willful, and/or taken in disregard for the rights of others.

### **PRAYER FOR RELIEF**

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

- a. Declares that the Design and Construct Defendants' conduct as alleged herein violates the Fair Housing Act;
- b. Enjoins the Design and Construct 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 living units and public and common use areas in these and other covered multifamily dwellings designed and constructed by the Design and Construct Defendants into compliance with 42 U.S.C. § 3604(f)(3)(C);
  - ii. Failing or refusing to conduct a compliance survey at all covered multifamily dwellings designed and constructed by the Design and Construct Defendants to determine whether the retrofits ordered in paragraph (i), above, were made properly;

- iii. Failing or refusing to retrofit the living units and public and common use areas in these and other covered multifamily dwellings designed and constructed by the Design and Construct Defendants to bring them into compliance with the requirements of 42 U.S.C. § 3604(f)(3)(C);
  - iv. Failing or refusing to take such affirmative steps as may be necessary to restore, as nearly as practicable, the victims of the Design and Construct Defendants' unlawful practices to the position they would have been in but for the discriminatory conduct; and
  - v. Designing and constructing any covered multifamily dwellings in the future that do not comply with 42 U.S.C. § 3604(f)(3)(C);
- c. Enjoins Defendant Stonelake Townhomes Property Owners Association, described above in Paragraph 10, from engaging in conduct that denies access to the common and public use areas and the covered multifamily dwellings under its ownership or management or the taking of any other action appropriate to ensure that any retrofits required to bring the living units and public and common use areas into compliance with the accessibility provisions of the Fair Housing Act be done in a prompt and efficient manner.
- d. Awards monetary damages to all persons harmed by the Design and Construct Defendants' discriminatory housing practices, pursuant to 42 U.S.C. § 3614(d)(1)(B); and
- e. Assesses a civil penalty against each Design and Construct Defendant, to vindicate the public interest pursuant to 42 U.S.C. § 3614(d)(1)(C).

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

Dated: \_\_\_\_\_ 2007

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