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ROBERT BEECHER  
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W.D. OF TENNESSEE  
MEMPHIS

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

UNITED STATES OF AMERICA, )  
)  
Plaintiff )  
)  
v. )  
)  
BRYAN CONSTRUCTION COMPANY, INC., )  
PATTON & TAYLOR CONSTRUCTION CO., )  
TAYLOR GARDNER ARCHITECTS, INC., )  
LOONEY-RICKS-KISS ARCHITECTS, INC., )  
RICHARD A. BARRON, THE REAVES FIRM, )  
INC., SMITH ENGINEERING FIRM, INC., )  
DAVID W. MILEM, BELZ / SOUTH BLUFFS, )  
INC., HT DEVCO, INC. and STEVE BRYAN. )  
)  
Defendants. )

Case No.: 05 2188 MIP

**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 (Fair Housing Act), 42 U.S.C. §§3601-3619.

### Jurisdiction and Venue

2. The Court has jurisdiction over this action under 28 U.S.C. §§1331 and 1345 and 42 U.S.C. §3614(a). The Court may grant declaratory and other relief pursuant to 28 U.S.C. §§2201 and 2202.

3. Venue is proper because the claims alleged in this action arose in the Western District of Tennessee.

### The Properties

4. South Bluffs Apartments are located at 4 Riverview Drive West, Memphis, Tennessee 38103.

5. Harbor Town Square Apartments are located at 1440 Island Park Drive, Memphis, Tennessee 38103.

6. Island Park Apartments are located at 1420 Island Park Drive, Memphis, Tennessee 38103.

7. The apartment complexes described in paragraphs 4 through 6, inclusive, were designed and constructed for first occupancy after March 13, 1991.

8. The apartment complexes described in paragraph 4 through 6, inclusive, are "dwellings" within the meaning of 42 U.S.C. §3602(b). They contain ground-floor units that are "covered multifamily dwellings" within the meaning of 42 U.S.C. §3604(f)(7)(A). These ground-floor units are subject to the accessibility requirements of 42 U.S.C. §3604(f)(3)(C).

### The Defendants

9. Defendant Bryan Construction Company, Inc. is a Tennessee corporation with its principal place of business at 779 Avery Boulevard, Ridgeland, Mississippi 39157. Defendant Bryan Construction Company, Inc. was the general contractor for Harbor Town Square Apartments, Island Park Apartments and a portion of South Bluffs Apartments and in that capacity was responsible for the design and/or construction of these apartment complexes.

10. Defendant Patton & Taylor Construction Co., Inc. is a Tennessee corporation with its principal place of business at 7960 Wolf River Boulevard, Germantown, Tennessee 38138. Defendant Patton & Taylor Construction Company, Inc. was the general contractor for a portion of South Bluffs Apartments and in that capacity was responsible for the design and/or construction of this apartment complex.

11. Defendant Taylor Gardner Architects, Inc. is a Tennessee corporation with its principal place of business at 760 Roland Street, Memphis, Tennessee 38104. Defendant Taylor Gardner Architects, Inc. was the architectural firm for Harbor Town Square Apartments and a portion of South Bluffs Apartments and in that capacity was responsible for the design and/or construction of these apartment complexes.

12. Defendant Looney-Ricks-Kiss Architects, Inc. is a Tennessee corporation with its principal place of business at 175 Toyota Plaza, Suite 600, Memphis, Tennessee 38103. Defendant Looney-Ricks-Kiss Architects, Inc. was the architectural firm for Island Park Apartments and a portion of South Bluffs Apartments and in that capacity was responsible for the design and/or construction of these apartment complexes.

13. Defendant Richard A. Barron is an individual with his place of business at 6520

Dogwood View Parkway, Suite E, Jackson, Mississippi 39213. Richard A. Barron was the architect for a portion of South Bluffs Apartments and in that capacity was responsible for the design and/or construction of this apartment complex.

14. Defendant The Reaves Firm, Inc. is a Tennessee corporation with its principal place of business at 5118 Park Avenue, Suite 400, Memphis, Tennessee, 38117. Defendant The Reaves Firm, Inc. was the civil engineering firm for Island Park and Harbor Town and in that capacity was responsible for the design and/or construction of these apartment complexes.

15. Defendant Smith Engineering Firm, Inc. is a Mississippi corporation with its principal place of business at 891 Rasco Road, Southaven, Mississippi. The Smith Engineering Firm, Inc. was the civil engineer for a portion of South Bluffs Apartments and in that capacity was responsible for the design and/or construction of this apartment complex.

16. Defendant David W. Milem is an individual with his principal place of business at 2142 Nelson Avenue, Memphis Tennessee. David W. Milem was the civil engineer for a portion of South Bluffs Apartments and in that capacity was responsible for the design and/or construction of this apartment complex.

17. Defendant Belz/South Bluffs, Inc. is a Tennessee corporation with its principal place of business at 100 Peabody Place, Suite 1400, Memphis, Tennessee 38103. Defendant Belz/South Bluffs, Inc. engaged with others in a joint venture called South Bluffs Joint Venture to own and develop South Bluffs Apartments. In this capacity, Defendant Belz/South Bluffs, Inc. engaged in and/or was responsible for the design and/or construction of South Bluffs Apartments.

18. Defendant HT Devco, Inc. is a Tennessee corporation with its principal place of

business at Suite 1200, 65 Union Avenue, Memphis Tennessee 38103. Defendant HT Devco, Inc. engaged with others in a joint venture called South Bluffs Joint Venture to own and develop South Bluffs Apartments. In this capacity, Defendant HT Devco, Inc. engaged in and/or was responsible for the design and/or construction of South Bluffs Apartments.

19. Defendant Steve Bryan is an individual with his principal place of business at 779 Avery Boulevard North, Ridgeland, Mississippi 39157. Defendant Steve Bryan also engaged with others in a joint venture called South Bluffs Joint Venture to own and develop South Bluffs Apartments. In these capacities, Defendant Steve Bryan engaged in and/or was responsible for the design and/or construction of South Bluffs Apartments.

#### **The Violations**

20. Defendants Bryan Construction Company, Inc., Patton & Taylor Construction Co., Taylor Gardner Architects, Inc., Looney-Ricks-Kiss Architects, Inc., Richard A. Barron, Smith Engineering Firm, Inc., David W. Milem, Belz/South Bluffs, Inc., HT Devo, Inc. and Steve Bryan failed to design and/or construct the covered multi-family dwellings described in paragraph 4 in the manner set forth in 42 U.S.C. §3604(f)(3)(C)(i) -(iii).

21. Defendants Bryan Construction Company, Inc., Taylor Gardner Architects, Inc. and The Reaves Firm, Inc. failed to design and/or construct the covered multi-family dwellings described in paragraph 5 in the manner set forth in 42 U.S.C. §3604(f)(3)(C)(i) -(iii).

22. Defendants Bryan Construction Company, Inc., Looney-Ricks-Kiss Architects, Inc. and The Reaves Firm, Inc. failed to design and/or construct the covered multi-family dwellings described in paragraph 6 in the manner set forth in 42 U.S.C. §3604(f)(3)(C)(i) -(iii).

23. Defendants' conduct, as described above, violates 42 U.S.C. §§3604(f)(1), (f)(2) and (f)(3)(C).

24. 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; and
- (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.

25. Upon information and belief, persons who are the victims of defendants' discriminatory housing practices may have suffered injuries as a result of defendants' conduct described above.

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

### Count II

27. The allegations of paragraphs 1- 26 are hereby incorporated by reference.

28. The clubhouse/rental office for Island Park which serves both Island Park and Harbor Town and the facilities operated by private entities in ground floor apartments at Harbor Town are places of public accommodation within the meaning of Section 301(7)(E) of the Americans with Disabilities Act, 42 U.S.C. §12181(7)(E).

29. The clubhouse rental office at Island Park was designed and constructed for first occupancy after January 26, 1993.

30. Defendants Bryan Construction Company, Inc., Looney-Ricks- Kiss, Architects, Inc. and The Reaves Firm, Inc. have violated 42 U.S.C. §12183(a)(1) by failing to design and construct the clubhouse rental offices of Island Park, such that it is readily accessible to and usable by individuals with disabilities, as required by Section 303(a)(1) of the ADA, 42 U.S.C. §12183(a)(1). This area fails in numerous respects to comply with the Department of Justice's regulation implementing Title III of the ADA, 28 C.F.R. Part 36, including the Standards for Accessible Design, 28 C.F.R. Part 36, Appendix A ("the ADA Standards"). These inaccessible features include, but are not limited to, the following:

- (a) the access gate at the south side of the rental office at 1420 Middleton Place, from the public parking on the west side to the gated resident parking area on the east side, has insufficient latch side maneuvering space, [*ADA Standards* 4.13.6];
- (b) at the rental office / clubhouse, the interior doors, including but not limited to the doors into the manager's and the assistant manager's offices, the display room and the clubroom have hardware which requires that a grasping with tight pinching and twisting of wrist to operate (knob hardware), [*ADA Standards* 4.13.9];
- (c) the designated accessible toilet stall in the women's and men's restrooms have toilets that is not centered, [*ADA Standard* 4.16.2]; and lavatories that are mounted on base cabinets that have no knee space underneath. [*ADA Standards* 4.19.2].

31. The defendants' conduct described in paragraphs 27-30 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).

32. Upon information and belief, persons who are victims of defendants' discriminatory conduct described in this count may have suffered injuries as a result of defendants' conduct.

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

(a) Declares that all defendants have engaged in a pattern or practice of violations of the Fair Housing Act; and that, in addition, Defendants Bryan Construction Company, Inc., Looney-Ricks- Kiss Architects, Inc. and The Reaves Firm, Inc. have engaged in a pattern or practice of violations of Title III of the Americans with Disabilities Act;

(b) Enjoins all 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 (a) the covered multi-family dwelling units, public use and common use areas at these and other covered, multi-family housing units that they have designed and/or constructed into full compliance with 42 U.S.C. §3604(f)(3)(C);
- (ii) At all other covered multifamily dwellings designed and/or constructed by any of the defendants and built for first occupancy after March 13, 1991, failing or refusing to: (a) conduct a compliance survey to identify violations of 42 U.S.C. §3604(f)(3)(C), and (b) with respect to any



violations found, retrofit the covered multi-family dwelling units, public use and common use areas to bring them into compliance with the requirements of 42 U.S.C. §3604(f)(3)(C);

- (iii) 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; and
- (iv) Designing or constructing any covered multi-family dwellings in the future that do not contain the accessibility and adaptability features set forth in 42 U.S.C. §3604(f)(3)(C).

(c) Enjoins Defendants Bryan Construction Company, Inc., Looney-Ricks- Kiss, Architects, Inc. and The Reaves Firm, Inc. 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 public use and common use areas at these and other covered, multi-family housing units that they have designed and/or constructed into full 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;
- (ii) With respect to the areas of all other covered multifamily dwellings which are public accommodations designed and/or constructed by any of the defendants for first occupancy after January 26, 1993, failing or refusing to: (a) conduct a compliance survey of these public accommodations to identify violations of 42 U.S.C. §12183(a)(1), 28 C.F.R. §§36.401 and

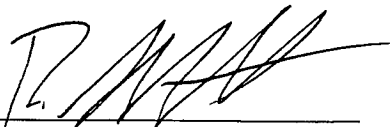
36.406, and 28 C.F.R. Part 36, Appendix A, and (b) with respect to any violations found, retrofit the covered multi-family dwelling units, public use and common use areas and the public accommodations areas to bring them into compliance with the requirements of the Americans with Disabilities Act and the ADA Standards;

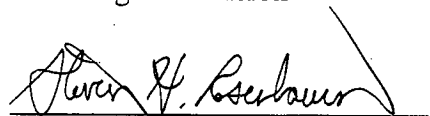
- (iii) Designing or constructing any public accommodations or commercial facilities that are not readily accessible to and usable by individuals as required by 42 U.S.C. §12183(a)(1), 28 C.F.R. §§36.401 and 36.406, and 28 C.F.R. Part 36, Appendix A.

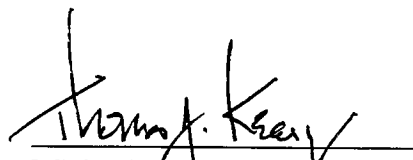
(d) Awards monetary damages to all persons harmed by Defendants' discriminatory housing practices, pursuant to 42 U.S.C. §3614(d)(1)(B) and 42 U.S.C. §12188(b)(2)(B); and

(e) Assesses a civil penalty against each defendant as authorized by 42 U.S.C. §3614(d)(1)(C) and, assess a civil penalty against Defendants Bryan Construction Company, Inc., Looney-Ricks- Kiss, Architects, Inc., Taylor Gardner Architects, Inc. and The Reaves Firm, Inc. as authorized by 42 U.S.C. §12188(b)(2)(C), in order to vindicate the public interest.

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


  
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