

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO.
)	
THE ENCLAVE DEVELOPMENT, L.L.C.,)	
MCS ASSOCIATES, INC., ROBERT LIPKA)	
AND ASSOCIATES, a/k/a ROBERT LIPKA,)	
ARCHITECT, P.C. and CHESTER STEMPIEN)	COMPLAINT
ASSOCIATES, AIA.,)	
)	
Defendants.)	
_____)	

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, 42 U.S.C. §§ 3601-3619.

Jurisdiction and Venue

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

3. Venue is proper because the claims alleged in this action arose in Washington Township, Michigan, in the Eastern District of Michigan, and concern or otherwise relate to real property located therein.

The Property

4. The Enclave Apartments is a residential apartment complex located at 8842 Stanford North, in Washington Township, Michigan. The complex consists of 45 one-story apartment buildings, containing a total of 200 ground floor units, as well as public and common use areas, including a clubhouse/rental office, a swimming pool, parking areas, sidewalks, trash

disposal enclosures, clustered mail boxes and a picnic gathering area.

5. The rental units at the Enclave Apartments are “dwellings” within the meaning of 42 U.S.C. § 3602(b).

6. The Enclave Apartments was designed and constructed for first occupancy after March 13, 1991. Its ground-floor units are “covered multifamily dwellings” within the meaning of 42 U.S.C. § 3604(f)(7)(B). The complex is subject to the accessibility requirements of 42 U.S.C. § 3604(f)(3)(C).

The Defendants

7. The Enclave Development, L.L.C., a Michigan limited liability corporation, is the builder, developer and owner of the Enclave Apartments and was involved in the design and construction of the Enclave Apartments.

8. MCS Associates, Inc., a Michigan corporation and engineering firm, is responsible for the public and common use areas of the Enclave Apartments, including the exteriors, sidewalks and pathways to dwelling entrances, and was involved in the design and construction of the Enclave Apartments.

9. Robert Lipka and Associates, a/k/a Robert Lipka, Architect, P.C., a Michigan professional corporation, drew the architectural plans for the Enclave Apartments and was involved in the design and construction of the Enclave Apartments.

10. Chester Stempien and Associates, a Michigan corporation, provided architectural services for the Enclave Apartments and was involved in the design and construction of the Enclave Apartments.

Fair Housing Claims

11. Plaintiff re-alleges and herein incorporates by reference the allegations set forth in paragraphs 1-11, above.

12. Defendants failed to design and construct the Enclave Apartments in such a manner that: (a) there are accessible building entrances on an accessible route; (b) the public use and common use portions of the dwellings are readily accessible to and usable by persons with disabilities; (c) all doors are sufficiently wide to allow passage by handicapped persons in wheelchairs; (d) all premises within such ground-floor dwellings contain the following features of adaptive design: (i) an accessible route into and through the dwelling; (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 using a wheelchair can maneuver about the space.

13. Defendants, through the actions and conduct referred to in the preceding paragraph, have:

- a. Discriminated in the sale or rental or otherwise made unavailable or denied dwellings to buyers or 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 the sale or 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).

14. The conduct of 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.

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

16. Defendants' discriminatory actions and conduct described above 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 policies and practices of Defendants, as alleged herein, violate the Fair Housing Act;
2. Declares that Defendants have engaged in a pattern or practice of discrimination in violation of the Fair Housing Act and have denied rights under the Fair Housing Act to a group of persons raising an issue of public importance;
3. Enjoins Defendants, their officers, employees, agents, successors, and all other

persons in active concert or participation with any of them, from

- a. Discriminating in the rental, or otherwise making unavailable or denying dwellings to renters, because of handicap in violation of 42 U.S.C. § 3604(f)(1);
 - b. Discriminating against any person in the terms, conditions, or privileges of rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of handicap in violation of 42 U.S.C. § 3604(f)(2);
 - c. Failing or refusing to bring the ground-floor dwelling units and public use and common use areas at the Enclave Apartments into compliance with 42 U.S.C. § 3604(f)(3)(C);
 - d. Failing or refusing to take such affirmative steps as may be necessary to restore, as nearly as practicable, persons harmed by Defendants' unlawful practices to the position they would have been in but for the discriminatory conduct; and
 - e. Designing and/or constructing any 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 appropriate monetary damages, pursuant to 42 U.S.C. § 3614(d)(1)(B), to each person harmed by Defendants' discriminatory conduct and practices.

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

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