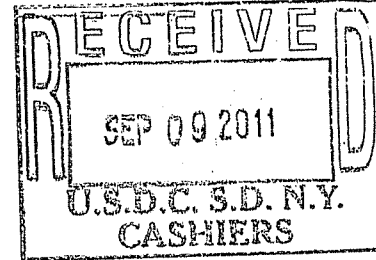


JUDGE BATTS

11 CIV 6321

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UNITED STATES DISTRICT COURT  
 SOUTHERN DISTRICT OF NEW YORK

----- X  
 UNITED STATES OF AMERICA, :  
 :  
 Plaintiff, :  
 :  
 - against - :  
 :  
 LARKSPUR LLC, LARKSPUR :  
 MANAGERS, LLC, and LARSEN SHEIN :  
 GINSBERG SNYDER LLP, :  
 :  
 Defendants. :  
 ----- X

ECF CASE

COMPLAINT

11 Civ. \_\_\_\_\_

Plaintiff United States of America (the "United States") alleges as follows:

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" or the "Act"), 42 U.S.C. §§ 3601-3619. As set forth in full below, the United States alleges that the Defendants, the developers and architect of The Larkspur, a residential apartment complex in Manhattan, have unlawfully discriminated against persons with disabilities under the Fair Housing Act by failing to design and construct The Larkspur so as to be accessible to persons with disabilities.

**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 pursuant to 28 U.S.C. § 1391(b) and (c) because the claims alleged in this action arose in the Southern District of New York, and concern or otherwise relate to real property located in this District.

**The Property**

4. The Larkspur is a residential apartment building located at 304 West 117th Street in New York, New York. The complex consists of a tower with elevator access, and contains 115 rental apartment units, a superintendent's apartment, and public and common use areas including laundry facilities and a gym.

5. The rental units at The Larkspur are "dwellings" within the meaning of 42 U.S.C. § 3602(b), and "dwelling units" within the meaning of 24 C.F.R. § 100.21.

6. The Larkspur was designed and constructed for first occupancy after March 13, 1991. All of the rental units are "covered multifamily dwellings" within the meaning of 42 U.S.C. § 3604(f)(7) and 24 C.F.R. § 100.21. The complex is subject to the accessibility requirements of 42 U.S.C. § 3604(f)(3)(C) and 24 C.F.R. § 100.205(a), (c).

**The Defendants**

7. Larkspur LLC, a New York limited liability company, is the owner, builder and developer of The Larkspur, and the Larkspur Managers, LLC, a New York limited liability company, is the operating manager of Larkspur, LLC, and, in those capacities, designed and constructed the complex.

8. Larsen Shein Ginsberg Snyder LLP, now dissolved, was, at all relevant times, a New York registered limited liability partnership that drew the architectural plans for The Larkspur and, in that capacity, designed and constructed The Larkspur. The architect of record for The Larkspur was Larsen Shein Ginsberg Snyder LLP's principal partner Robert G. Larsen.

**Inaccessible Features of The Larkspur**

9. The Larkspur, which the Defendants designed and constructed, is inaccessible to persons with disabilities.

10. For instance, Defendants designed and constructed the following inaccessible features in The Larkspur:

- a. Excessively high thresholds at unit, bathroom, terrace, and kitchen entrances interfering with accessible routes for persons who use wheelchairs;
- b. Insufficient clear opening width of terrace and closet doors;
- c. Insufficient clear floor space within bathrooms for maneuvering by persons who use wheelchairs;
- d. Kitchens lacking sufficient clearance to accommodate persons who use wheelchairs;
- e. Thermostats inaccessible to persons who use wheelchairs;
- f. Kitchen and bathroom electrical outlets inaccessible to persons who use wheelchairs;
- g. Kitchen sinks and ranges not usable by persons who use wheelchairs;

- h. Kitchens lacking sufficient space between appliances and/or countertops to be usable by persons who use wheelchairs;
- i. Bathrooms lacking sufficient space between sidewalls and/or fixtures to be usable by persons who use wheelchairs;
- j. Common area doors requiring excessive force for persons with certain disabilities;
- k. Common area doors closing too quickly for disabled persons to pass through;
- l. Excessively high thresholds at common area doors interfering with accessible routes for persons who use wheelchairs;
- m. Running slope of building ramp excessively steep to accommodate persons who use wheelchairs;
- n. Ramp handrails excessively high for persons who use wheelchairs;
- o. Mailboxes inaccessible to persons who use wheelchairs;
- p. Signs for common areas lacking raised-letter Braille;
- q. Features within the fitness room and laundry room inaccessible to persons who use wheelchairs;
- r. Trash chute access doors requiring excessive force for persons with certain disabilities;
- s. Insufficient clear floor space within trash room for maneuvering by persons who use wheelchairs;

- t. Insufficient clear floor space within basement storage room for maneuvering by persons who use wheelchairs;
- u. Protruding objects in common areas, not detectable by canes of visually impaired persons; and
- v. Common area bathrooms lacking sufficient space between sidewalls and/or fixtures to be usable by persons who use wheelchairs.

11. In designing and constructing The Larkspur in this manner, Defendants failed to comply with all applicable State and local design and construction provisions, including New York City Local Law 58.

**Fair Housing Act Claims**

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

13. Defendants violated 42 U.S.C. § 3604(f)(3)(C), and 24 C.F.R. § 100.205(c), by failing to design and construct The Larkspur in such a manner that:

- a. the public use and common use portions of the dwellings are readily accessible to and usable by persons with disabilities;
- b. all doors designed to allow passage into and within the dwellings are sufficiently wide to allow passage by persons who use wheelchairs for mobility; and
- c. all premises within such dwellings contain the following features of adaptive design:
  - i) an accessible route into and through the dwelling;

- ii) light switches, electrical outlets, thermostats, and/or other environmental controls in accessible locations; and
- iii) usable kitchens and bathrooms, such that an individual using a wheelchair can maneuver about the space.

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

- a. Discriminated in the sale or rental of, or otherwise made unavailable or denied, dwellings to buyers or renters because of a disability, in violation of 42 U.S.C. § 3604(f)(1) and 24 C.F.R. § 100.202(a);
- 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 a disability, in violation of 42 U.S.C. § 3604(f)(2) and 24 C.F.R. § 100.202(b); 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), and 24 C.F.R. § 100.205.

15. 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; and/or
- b. A denial to a group of persons of rights granted by the Act, 42 U.S.C. §§ 3601-3619, which denial raises an issue of general public importance.

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

17. Defendants' discriminatory actions and conduct described above were intentional, willful, and taken in disregard for the rights of others.

**Prayer for Relief**

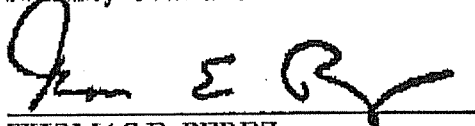
WHEREFORE, the United States prays that the Court enter an order that:

1. Declares that the policies and practices of Defendants, as alleged herein, violate the Fair Housing Act;
2. Enjoins 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 dwelling units and public use and common use areas at The Larkspur into compliance with 42 U.S.C. § 3604(f)(3)(C), and 24 C.F.R. § 100.205;
  - b. 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;
  - c. 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), and 24 C.F.R. § 100.205; and

- d. Failing or refusing to conduct a compliance survey at the Larkspur to determine whether the retrofits ordered in paragraph 2(a) were made properly;
3. Awards appropriate monetary damages, pursuant to 42 U.S.C. § 3614(c)(1) and § 3614(d)(1)(B), to each person harmed by Defendants' discriminatory conduct and practices; and
4. Assesses a civil penalty against each Defendant in the maximum amount authorized by 42 U.S.C. § 3614(d)(1)(C) to vindicate the public interest.

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

ERIC H. HOLDER, JR.  
Attorney General of the United States




THOMAS E. PEREZ  
Assistant Attorney General  
Civil Rights Division

Date: New York, New York

Sept. 9, 2011

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