

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

HOUSING RESEARCH & ADVOCACY)
CENTER)
3631 Perkins Avenue, Suite A-3)
Cleveland, OH 44114)

Plaintiff,)

v.)

THE K & D GROUP, INC.)
c/o Douglas E. Price, III, Statutory Agent)
8383 Mentor Avenue)
Mentor, OH 44060)

STONEBRIDGE WATERFRONT, INC.)
c/o Douglas E. Price, III, Statutory Agent)
8383 Mentor Avenue)
Mentor, OH 44060)

STONEBRIDGE BUILDING AND DESIGN, INC.)
c/o Douglas E. Price, III, Statutory Agent)
8383 Mentor Avenue)
Mentor, OH 44060)

BERARDI + PARTNERS, INC.)
c/o Berardi + Partners Inc. Statutory Agent)
369 E. Livingstorn Avenue)
Columbus, OH 43215)

Defendants.)

_____)

Case No.

**COMPLAINT AND JURY
DEMAND**

I. INTRODUCTION AND SUMMARY OF CLAIMS

1. This civil rights action is brought by Plaintiff Housing Research & Advocacy Center (the “Housing Center”), a non-profit, fair housing organization, against The K & D Group, Inc., Stonebridge Waterfront, Inc., Stonebridge Building & Design, Inc., and Berardi + Partners, Inc. for violations of the accessibility requirements of the Fair Housing Act (“FHA”) and the Ohio Revised Code. Defendants are the designers, builders, developers and/or owners of apartments and condominiums at Stonebridge. Stonebridge is a large residential and commercial development located on the west bank of the Cuyahoga River and adjacent to the Old Superior Aqueduct. An investigation by the Housing Center and the Ohio Civil Rights Commission revealed numerous and substantial violations of the FHA and the Ohio Revised Code at each of the apartment or condominium buildings constructed or being constructed at Stonebridge – Stonebridge Waterfront Apartments, Stonebridge Towers, and Stonebridge Plaza (collectively “Residences at Stonebridge”). As planned, Stonebridge is the largest single residential project in Cleveland in 97 years. More than 2,000 residential units are planned for Stonebridge.

2. This Complaint alleges that Defendants have engaged in a continuous pattern and practice of discrimination against people with disabilities in violation of the FHA and the Ohio Revised Code by designing and/or constructing multi-family dwellings and the common use areas associated with those dwellings at Stonebridge in such a manner as to deny people with disabilities full access to and the use of these facilities. Defendants’ continuous pattern and practice of constructing inaccessible apartment and condominium

buildings violates the accessibility requirements of the FHA that have been in effect for over 18 years.

3. Defendants' violations of the FHA and the Ohio Revised Code design and construction requirements have serious and significant consequences for people with disabilities. As set forth below, apartments and condominiums at Stonebridge have features – such as steps, thresholds, doors, inaccessible bathrooms and kitchens, and passageways that are too narrow for wheelchairs – that would prevent people in wheelchairs or using other mobility aids from using and enjoying residential units and from traversing from covered units to the public streets and amenities throughout the complexes. Defendants placed environmental controls and electrical outlets beyond the reach of wheelchair users and constructed common restrooms and recreational facilities in such a way as to make them inaccessible to wheelchair users. These blatant violations, and many others, effectively communicate that people with disabilities are not welcome at Stonebridge.

4. A person using a wheelchair or other mobility aid is just as effectively excluded from the opportunity to live in a particular dwelling by steps or thresholds at building or unit entrances and by too narrow doorways as by a posted sign saying “No Handicapped People Allowed.” In considering the 1988 amendments to the FHA, Congress stressed that enforcement of civil rights laws is necessary to protect people with disabilities from the “devastating” impact of housing discrimination, including the “architectural barriers” erected by developers who fail to design and construct dwellings and public accommodations accessible to, and adaptable by, people with disabilities. H.R. REP. NO. 100-711, at 25 (1988), *reprinted in* 1988 U.S.C.C.A.N. 2173, 2186.

Defendants' violations of the FHA have thwarted Congressional efforts to eradicate housing discrimination against people with disabilities, rendered units and/or facilities at Stonebridge unavailable to people with disabilities, caused the Housing Center to divert its scarce resources in an attempt to redress these violations, and frustrated the mission of the Housing Center. Enforcement of the FHA and the Ohio Revised Code against Defendants is necessary because of the extensive nature of the civil rights violations at apartment and condominium complexes designed, constructed and/or owned by Defendants.

5. Enforcement of the FHA and Ohio Revised Code accessibility requirements is an important means of ensuring equal housing opportunity to wheelchair users and other people with mobility impairments. According to the 2004 American Community Survey, conducted by the U.S. Census Bureau, more than 51 million Americans (nearly one in five) has some form of disability, and one in eight has a severe disability. Of that number, more than 2.7 million people over the age of 15 years use a wheelchair. Another 7 million use a cane, crutches, a walker or other mobility aid. The United States Census Bureau estimates that there are 202,749 persons with disabilities in Cuyahoga County alone. These numbers are expected to increase as the population ages, wounded veterans return from Iraq and Afghanistan and other theaters of combat, and medical care allows people with disabilities to live longer and fuller lives. Accessible housing is an essential means of ensuring that people with disabilities are able to fully participate in community life.

II. JURISDICTION AND VENUE

6. This Court may exercise subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1332, and 42 U.S.C. § 3613(a).

7. Venue is proper in the Northern District of Ohio pursuant to 28 U.S.C. § 1391(b) in that Defendants are legal entities that do business and/or reside in this district, the events giving rise to these claims occurred in this district, and these claims concern or otherwise relate to real property located in this district.

III. PARTIES

8. The Housing Research & Advocacy Center is a private, non-profit organization, incorporated under the laws of Ohio and located in Cleveland, Ohio, whose mission is to eliminate housing discrimination and assure choice in Northeast Ohio by providing those at risk with effective information, intervention and advocacy. In furthering this goal, the Housing Center provides counseling, guidance and support to individuals who encounter discrimination in their search for housing. This may include investigation of their complaints. The Housing Center also engages in activities designed to encourage fair housing practices by educating consumers of their rights and professionals of their responsibilities under the FHA, identifying barriers to fair housing in order to counteract and eliminate discriminatory housing practices, and by working with elected and government representatives to protect and improve fair housing laws. The Housing Center also conducts research into housing and lending patterns, and related fair housing matters, throughout Northeast Ohio in order to educate government officials, individuals who work in the housing industry, and the public as a whole regarding housing discrimination and segregation.

9. Defendant The K & D Group, Inc. is an Ohio corporation with its principal place of business located at 4420 Sherwin Road, Willoughby, Ohio. The K & D Group, Inc. is an owner and/or developer of the apartment and condominium units at Stonebridge including Stonebridge Waterfront Apartments, Stonebridge Towers and Stonebridge Plaza and participated in the design and/or construction of the noncompliant dwellings that are the subject of this lawsuit. The K & D Group, Inc. was an owner and/or developer at the time of design and construction.

10. Defendant Stonebridge Waterfront, Inc. is an Ohio corporation with its principal place of business located at 8383 Mentor Avenue, Mentor, Ohio. Stonebridge Waterfront, Inc. is an owner and/or developer of the apartment and condominium units at Stonebridge including Stonebridge Waterfront Apartments, Stonebridge Towers and Stonebridge Plaza and participated in the design and/or construction of the noncompliant dwellings that are the subject of this lawsuit. Stonebridge Waterfront, Inc. was an owner and/or developer at the time of design and construction.

11. Defendant Stonebridge Building & Design, Inc. is an Ohio corporation with its principal place of business located at 2019 Center Street, Cleveland, Ohio. Stonebridge Building & Design is an owner, developer, builder and/or designer of the apartment and condominium units at Stonebridge including Stonebridge Waterfront Apartments, Stonebridge Towers and Stonebridge Plaza and participated in the design and/or construction of the noncompliant dwellings that are the subject of this lawsuit.

12. Defendant Berardi + Partners, Inc. is an Ohio corporation with its principal place of business at 389 East Livingston Avenue, Columbus, Ohio. It provided architectural services for apartment buildings and condominium complexes covered by

the FHA including Stonebridge Waterfront Apartments, Stonebridge Towers and Stonebridge Plaza. In that capacity, Defendant Berardi + Partners, Inc. is responsible for the design and/or construction of the non-compliant dwellings that are the subject of this lawsuit.

13. Each of the Defendants was the actual or apparent agent, employee or representative of each of the other Defendants. Each Defendant, in doing the acts or omitting to act as alleged in this Complaint, was acting in the course and scope of his, her or its actual or apparent authority pursuant to such agencies; or the alleged acts or omissions of each Defendant as agent were subsequently ratified and adopted by each agent as principal.

IV. STATUTORY AND REGULATORY FRAMEWORK

The Fair Housing Act

14. The FHA mandates that every multi-family building containing four (4) or more units, and built for first occupancy after March 13, 1991, be subject to certain design and construction requirements. All units served by an elevator must provide:

- a. Public-use and common-use areas that are readily accessible to, and usable by, people with disabilities;
- b. Doors into and within covered units that are sufficiently wide to allow passage by people in wheelchairs;
- c. An accessible route into and through the dwelling;
- d. Light switches, electrical outlets, thermostats and other environmental controls in accessible locations;

- e. Reinforcements in bathroom walls that allow for the later installation of grab bars; and
- f. Usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

15. Pursuant to Congressional authority, the United States Department of Housing and Urban Development (“HUD”) promulgated final FHA design and construction regulations in January 1989, *see* 24 C.F.R. § 100.205, and published the final Fair Housing Accessibility Guidelines on March 6, 1991, *see* 56 Fed. Reg. 9472, and the *Fair Housing Act Design Manual* in August 1996, which was revised in August 1998.

Ohio Revised Code Chapter 4112.02(H)

16. R.C. § 4112(H)(1) prohibits denying or making unavailable housing accommodations to individuals who are disabled.

17. R.C. § 4112(H)(4) makes it unlawful to engage in discrimination in the terms or conditions of selling or renting, or in the provision of services or facilities in connection with the ownership, occupancy or use because of disability.

18. R.C. § 4112.02(H)(15) prohibits discrimination “in the sale or rental of, or otherwise mak[ing] unavailable or deny[ing], housing accommodations to any buyer or renter because of disability. . .”

19. R.C. § 4112.02(H)(16) makes it unlawful to “[d]iscriminate in the terms, conditions, or privileges of the sale or rental of housing accommodations to any person or in the provision of services or facilities to any person in connection with the housing accommodations because of a disability. . .”

20. R.C. § 4112.02(H)(20) makes it an unlawful discriminatory practice for any person to fail to comply with the standards and rules adopted under R.C. § 3781.111. Pursuant to R.C. § 3781.111, the Board of Building Standards adopted O.A.C. § 4101:2-11-01.2, which, during all times relevant to this Complaint, incorporated both the Americans With Disabilities Act Accessibility Guidelines (ADAAG) and International Code Council, American National Standard for Accessible and Usable Buildings and Facilities (“OBC/ICC/ANSI A117.1”).

21. R.C. § 4112.02(H)(22) mandates that every multi-family apartment building containing four (4) or more units, built for first occupancy after June 30, 1992, be subject to certain design and construction requirements. All ground floor units must provide:

- a. Public-use and common-use areas that are readily accessible to, and usable by, people with disabilities;
- b. All doors into and within covered units that are sufficiently wide to allow passage by people in wheelchairs;
- c. An accessible route into and through the dwelling;
- d. Light switches, electrical outlets, thermostats and other environmental controls in accessible locations;
- e. Reinforcements in bathroom walls that allow for the later installation of grab bars; and
- f. Kitchens and bathrooms designed and constructed such that an individual in a wheelchair can maneuver about the room.

V. FACTUAL AND LEGAL BACKGROUND

22. In the course of its advocacy on behalf of people protected by the FHA and the Ohio Revised Code, the Housing Center became aware that apartment buildings and condominium complexes at Stonebridge did not include the required elements of accessible and adaptable design. In 2008 and 2009, the Housing Center visited Stonebridge Waterfront Apartments, Stonebridge Towers, and Stonebridge Plaza and identified multiple design and construction violations.

23. On or about June 13, 2008, the Housing Center filed a complaint with HUD, which was referred to the Ohio Civil Rights Commission (“OCRC”). OCRC administers Ohio Revised Code § 4112.02(H), which HUD has designated to be substantially equivalent to the FHA.

24. The Housing Center’s complaint alleged that Defendants discriminated in housing on the basis of handicap/disability because the Residences at Stonebridge were not designed and constructed in compliance with the accessibility requirements of the federal Fair Housing Act, 42 U.S.C. § 3604(f) and the Ohio Revised Code § 4112.02(H).

25. Pursuant to the requirements of Ohio Revised Code § 4112.05, OCRC conducted and completed an investigation of the HUD complaint filed by the Housing Center. OCRC conducted an investigation, including having an expert visit Stonebridge Waterfront Apartments, Stonebridge Towers and Stonebridge Plaza to determine whether the residential units comply with accessibility requirements of the FHA and the Ohio Revised Code. Based upon the evidence obtained in that investigation, OCRC determined on February 19, 2009, that there was probable cause to conclude that Defendants engaged in discriminatory housing practices in violation of Ohio Revised

Code § 4112 in the design and construction of the Residences at Stonebridge. An attempt to conciliate the matter, in accord with Ohio Revised Code § 4112.3.03(B), was unsuccessful. On July 6, 2009, OCRC issued a complaint and notice of hearing before an administrative law judge.

26. The frequency and similarity of these violations among all the residential properties at Stonebridge demonstrate that Defendants have engaged in a pervasive pattern and practice of designing and constructing apartment buildings and condominium complexes in violation of the design and construction accessibility requirements.

27. By way of example and not as an exhaustive inventory, Defendants violated the Fair Housing Act and the Ohio Revised Code by failing to design and construct covered dwelling units at Stonebridge so that:

- a. Doors in units are sufficiently wide so as to allow passage into bathrooms and bedrooms and other areas in the units by people using wheelchairs;
- b. An accessible route into and through the unit is provided, including access to patios;
- c. Bathrooms have sufficient clear floor space to allow a person in a wheelchair to maneuver about the space;
- d. Kitchens have sufficient clear floor space to allow a person in a wheelchair to maneuver about the space; and
- e. Light switches, electrical outlets, thermostats and other environmental controls are in accessible locations.

28. Defendants have also violated the Fair Housing Act and the Ohio Revised Code by failing to design and construct the public and common areas so that they are

readily accessible to and usable by people with disabilities. By way of example and not as an exhaustive inventory, some of the violations in the common areas include the following:

- a. Lack of accessible entrances;
- b. Lack of readily accessible routes into and through common use and public use areas;
- c. Inaccessible common use restrooms and locker rooms;
- d. Inaccessible ramps; and
- e. Lack of designated accessible parking spaces.

29. The following specific examples are illustrative of Defendants' pattern and practice of FHA violations:

Stonebridge Waterfront Apartments

30. Stonebridge Waterfront Apartments is a covered multifamily complex located at 1500 Detroit Avenue, Cleveland, Ohio consisting of approximately 129 units. Some of the violations observed by the Housing Center and OCRC's expert include but are not limited to the following:

- a. Doorways to the master bedroom are too narrow to allow passage by people in wheelchairs;
- b. Bathroom clearances are insufficient to allow a person in a wheelchair to maneuver about the space. Specifically, the failure to provide sufficient clear space makes it difficult for a person in a wheelchair to enter and close the door. Also, the failure to provide sufficient clear floor space at the sink can make it difficult for people in wheelchairs to approach and use the sink;

c. Kitchen clearances are insufficient to allow a person in a wheelchair to maneuver about the space. Specifically, the passageways in the kitchen are too narrow to allow passage by persons in wheelchairs. There is not enough room at the stove top for a person in a wheelchair to safely reach and use the stove without the possibility of being burned;

d. The threshold between the patio and the remainder of the apartment is too high, making it difficult for a person in a wheelchair to move from the patio to the apartment;

e. Environmental controls are placed at heights that are beyond the reach of a person in a wheelchair;

f. Some common area entrances are inaccessible due to steps and high thresholds, making it difficult for people in wheelchairs to enter the building through those entrances;

g. The parking garage is without any designated handicapped parking and without parking spaces with sufficient width and an access aisle to allow a person in a wheelchair to access his car. As a result, wheelchair users may be discouraged from leaving their units because no designated handicapped parking exists;

h. The showers in the exercise facility locker room are difficult for persons in wheelchairs to use because the door leading to the showers in the women's restroom is too narrow and there is a high threshold leading to the shower stalls in both the women's and the men's locker facilities;

i. Toilet stalls in the men's and women's locker rooms have insufficient clearance and the doors are too narrow, making it difficult for a person in a wheelchair to approach and use;

j. The ramp leading to the west parking garage is inaccessible. Specifically, the ramp does not have proper landings and lacks handrails, thereby rendering it difficult for people in wheelchairs to use safely; and

k. Restrooms in the leasing office have insufficient clearance to allow a person in a wheelchair to approach and use the toilets and the toilets are below the minimum height required for a person in a wheelchair to transfer.

Stonebridge Towers

31. Stonebridge Towers is a 164 unit condominium complex located at 2222 Detroit Avenue, Cleveland, Ohio. Some of the violations observed by the Housing Center and OCRC's expert include but are not limited to:

a. Doorways to the bedroom in some units and doorway to the master bathroom in others are too narrow to allow passage by people in wheelchairs;

b. The entryway in some units does not have sufficient clearance to allow a person in a wheelchair to close the door and easily maneuver;

c. The threshold between the patio and the remainder of the apartment in some units is too high, making it difficult for a person in a wheelchair to safely move from the patio to the apartment;

d. Environmental controls are placed at heights that are beyond the reach of a person in a wheelchair;

e. Bathroom clearances are insufficient to allow a person in a wheelchair to maneuver about the space. Specifically, the failure to provide clear floor space makes it difficult for a person in a wheelchair to enter and close the door. Also, the failure of sufficient clear floor space at the sink can make it difficult to approach and use the sink;

f. Kitchen clearances are insufficient to allow a person in a wheelchair to maneuver about the space. Specifically, the passageways in the kitchen are too narrow to allow passage by persons in wheelchairs;

g. Lack of accessible routes into the building;

h. The entry door to the exercise facility is too narrow to allow passage for a person in a wheelchair;

i. The parking garage has no designated parking for people with disabilities with sufficient width and an access aisle; and

j. The restrooms adjacent to the exercise facility do not have sufficient clearance to allow a person in a wheelchair to maneuver.

Stonebridge Plaza

32. Stonebridge Plaza is a 108 unit condominium complex located at 1237 Washington Avenue, Cleveland, Ohio. Upon information and belief, Stonebridge Plaza is still being constructed. Some of the violations observed by the Housing Center and OCRC's expert include but are not limited to the following:

a. Hallways too narrow to allow passage by persons in wheelchairs;

b. Kitchen clearances are insufficient to allow a person in a wheelchair to maneuver about the space. Specifically, the passageways in the kitchen are too narrow to allow passage by persons in wheelchairs;

c. Environmental controls are placed at heights that are beyond the reach of a person in a wheelchair;

d. Common area entrances are inaccessible due to steps and thresholds, making it difficult for people in wheelchairs to enter building through those entrances; and

e. There is no accessible route to the exercise facility because there are steps in the hallway leading to it from the dwelling units, making it difficult for residents in wheelchairs to easily access the exercise facility.

VI. INJURY TO PLAINTIFF

33. As a result of Defendants' actions described above, the Housing Center has been directly and substantially injured. Defendants' actions have frustrated Plaintiff's mission to eradicate discrimination in housing, and undermined the effectiveness of the programs and services it provides, including encouraging integrated living patterns, providing assistance to individuals and families looking for housing or affected by discriminatory housing practices, and eliminating discriminatory housing practices.

34. In addition, the Housing Center has invested considerable time and effort in education about the importance of accessible housing for people with disabilities, in an attempt to secure compliance by entities involved in the design and construction of covered multi-family dwellings. Each time Defendants designed and constructed covered dwellings that did not comply with the FHA and the Ohio Revised Code, Defendants

frustrated the mission of the Housing Center inasmuch as it served to discourage people with disabilities from living at that dwelling, and encouraged other entities involved in the design and construction of covered units to disregard their own responsibilities under the FHA and the Ohio Revised Code.

35. Defendants' continuing discriminatory practices have forced the Housing Center to divert scarce resources to identify, investigate and counteract the Defendants' discriminatory practices, and such practices have frustrated Plaintiff's other efforts against discrimination, causing Plaintiff to suffer concrete and demonstrable injuries.

36. The Housing Center has conducted tests at Stonebridge, resulting in the diversion of its resources that they would not have had to expend were it not for Defendants' violations.

37. In carrying out the aforementioned actions, Defendants acted intentionally, willfully, and with callous and reckless disregard of the rights of Plaintiff and people with disabilities to accessible housing, pursuant to the FHA and the Ohio Revised Code. Defendants knew or should have known of their design and construction obligations with respect to these properties.

38. Until remedied, Defendants' unlawful, discriminatory actions will continue to injure the Housing Center by:

- a. Interfering with efforts and programs intended to bring about equality of opportunity in housing;
- b. Requiring the commitment of scarce resources, including substantial staff time and funding, to investigate and counteract Defendants' discriminatory

conduct, thus diverting those resources from the Plaintiff's other activities and services, such as education, outreach and counseling; and

c. Frustrating the Housing Center's mission and purpose of promoting the equal availability of housing to all persons without regard to any protected category, including disability.

VII. LEGAL CLAIMS

Count I Federal Fair Housing Act 42 U.S.C. §§ 3601 *et seq.*

39. Plaintiff realleges and incorporates by reference the allegations of Paragraphs 1-38.

40. Stonebridge Waterfront Apartments, Stonebridge Towers and Stonebridge Plaza are residential units that are "dwellings" within the meaning of 42 U.S.C. § 3602(b).

41. Each unit on floors in buildings serviced by an elevator are "covered multifamily dwellings" within the meaning of 42 U.S.C. § 3604(f)(7)(A) and each is subject to the requirements of 42 U.S.C. § 3604(f).

42. Through the actions and inactions described above, Defendants have:

a. Discriminated in the rental or sale of, otherwise made unavailable, or denied dwellings to individuals because of handicap in violation of 42 U.S.C. § 3604(f)(1);

b. Discriminated against persons in the terms, conditions, or privileges of rental or sale, or in the provision of services or facilities in connection with the

rental of a dwelling, because of handicap, in violation of 42 U.S.C. § 3604(f)(2); and

c. Discriminated because of handicap by failing to design and construct dwellings in compliance with the requirements mandated by 42 U.S.C. § 3604(f)(3)(C), and the applicable regulations.

43. The actions complained of constitute a continuing pattern and practice of repeated and continuing FHA violations in that Defendants have engaged in a continuing, systematic and consistent pattern and practice of designing and constructing covered multifamily dwellings in violation of 42 U.S.C. §§ 3601-3619.

44. As a result of Defendants' wrongful conduct, the Housing Center has been injured by discriminatory housing practices and is, therefore, an "aggrieved person" as defined by 42 U.S.C. § 3602(I)(1).

45. Defendants' conduct, as described above, was intentional, willful and taken in conscious disregard for the rights of others.

Count II
Violation of the Ohio Revised Code Chapter 4112.02(H)

46. Plaintiff realleges and incorporates by reference the allegations of Paragraphs 1 - 38 of this Complaint.

47. Each of the Defendants is a "person" as defined by Ohio Rev. Code § 4122.01(A)(1). Stonebridge contains apartment and condominium buildings with "dwelling units" within the meaning of Ohio Rev. Code § 4122.01(A)(17). Each of the Residences at Stonebridge is a "covered multifamily dwelling" within the meaning of Ohio Rev. Code § 4122.02(H)(22), was built for first occupancy after June 30, 1992, and is subject to the design and construction requirements set forth in Ohio Rev. Code

§ 4122.02(H)(22). There are “public” and “common use” areas at the Residences at Stonebridge that are subject to the design and construction requirements of the Ohio Rev. Code § 4122.02(H)(22).

48. Through the actions and inactions described above, Defendants, together and separately, have:

a. Denied or made unavailable housing accommodations to individuals who are disabled in violation of Ohio Rev. Code § 4112.02(H)(1);

b. Discriminated against persons in the terms or conditions of selling or renting, or in the provision of services or facilities in connection with the ownership, occupancy or use because of disability in violation of Ohio Rev. Code § 4122(H)(4);

c. Discriminated in the sale of, or otherwise made unavailable or denied housing accommodations to any buyer because of disability in violation of Ohio Rev. Code § 4122(H)(15);

d. Discriminated in the terms, conditions, or privileges of the sale of housing accommodations to any person in connection with housing accommodations because of a disability in violation of Ohio Rev. Code § 4122(H)(16);

e. Failed to comply with ADAAG and OBC/ICC/ANSI A117.1 in violation of Ohio Rev. Code § 4112.02(H)(20); and

f. Failed to design and construct covered multifamily dwellings and public and common use areas in accordance with Ohio Rev. Code § 4112.02(H)(22).

49. Defendants' conduct described herein has been intentional, willful and with callous disregard for the rights of people with disabilities.

50. The actions complained of constitute a continuing pattern and practice of repeated and continuing violations in that Defendants have engaged in a systematic and consistent pattern and practice of designing and constructing covered multifamily dwellings in violation of the Ohio Revised Code.

51. As a result of Defendants' wrongful conduct, Plaintiff has been injured by an unlawful discriminatory housing practice and is, therefore, a "person" as defined by Ohio Rev. Code § 4122.01(A)(1).

VIII. JURY TRIAL DEMAND

Plaintiff hereby demands a trial by jury.

IX. PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that this Court enter an order against Defendants, together and individually, as follows:

- A. Declaring that the conduct of Defendants in designing and constructing the Residences at Stonebridge is in violation of the Fair Housing Act, 42 U.S.C. §§ 3604(c), (f)(1), (f)(2), and (f)(3)(C), and the Ohio Rev. Code Ann. §§ 4112.02(H) (1), (H)(4), (H)(15), (H)(16), (H)(20) and (H)(22);
- B. Permanently enjoining Defendants, their officers, directors, employees, agents, successors, assigns, and all other persons in active concert or participation with any of them, from:

- 1) Failing or refusing to bring the covered dwelling units and the public use and common use areas of the Residences at Stonebridge into immediate compliance with the requirements of 42 U.S.C. § 3604(f)(3)(C), Ohio Rev. Code Ann. § 4112.02(H)(22), and the applicable regulations;
 - 2) Failing or refusing to bring the covered dwelling units and the public use and common use areas of the Residences at Stonebridge into immediate compliance with the requirements of Ohio Rev. Code Ann. § 4112.02(H)(20) and the applicable regulations;
 - 3) Continuing with further construction of Stonebridge Plaza until such time as the violations of law specified herein are corrected; and
 - 4) Failing or refusing to design and construct any covered multifamily dwellings in the future in compliance with the Fair Housing Act and Ohio Rev. Code Ann. §§ 4112.02(H)(1), (H)(4), (H)(15), (H)(16), (H)(20) and (H)(22).
- C. Order Defendants to take such affirmative actions as are necessary to bring the Residences at Stonebridge into compliance with the Fair Housing Act, the Ohio Revised Code, and the applicable regulations;
- D. Enjoining the Defendants from failing or refusing to permit the retrofits ordered by the Court to be made at the Residences at Stonebridge, to comply with such procedures for inspection and certification of the retrofits performed as may be ordered by this Court, and to perform or

allow such other acts as may be necessary to effectuate any judgment against Defendants;

- E. Award such compensatory damages as would fully compensate the Plaintiff for the injuries incurred as a result of the discriminatory housing conduct of Defendants;
- F. Award such punitive damages against Defendants as are proper under the law;
- G. Award Plaintiff its costs, attorney's fees, and expenses; and
- H. Award such other relief as this Court deems just and proper.

Dated: July 28, 2009.

Respectfully Submitted,

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