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**RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT,  
NORTHERN DISTRICT OF CALIFORNIA**

8 MELINDA HAAG  
9 United States Attorney

**DMR**

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

12 UNITED STATES OF AMERICA,

**CV 11**

**5641**

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14 Plaintiff,

Civil Action No. \_\_\_\_\_

15 v.

16 CITY OF SANTA ROSA, and  
17 LA ESPLANADA UNIT 1 OWNERS'  
18 ASSOCIATION,  
19 Defendants.

**COMPLAINT**

21 The United States of America alleges as follows:

**NATURE OF THE ACTION**

24 1. The United States brings this action to enforce the Fair Housing Act, Title VIII of  
25 the Civil Rights Act of 1968, as amended ("FHA"), 42 U.S.C. §§ 3601 *et seq.* It is brought  
26 against La Esplanada Unit 1 Owners' Association on behalf of Vladimir Abramov and La  
27 Promenade Villas, LLC, pursuant to 42 U.S.C. § 3612(o). The United States also brings this

1 action against the City of Santa Rosa and La Esplanada Unit 1 Owners' Association pursuant to  
2 42 U.S.C. § 3614(a).

3 **JURISDICTION, VENUE, AND INTRADISTRICT ASSIGNMENT**

4 2. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and  
5 1345, and 42 U.S.C. §§ 3612 (o) and 3614(a).

6  
7 3. Venue is proper under 28 U.S.C. § 1391(b) because the events or omissions giving  
8 rise to the claims alleged herein occurred in this judicial district, and, in particular, in Sonoma  
9 County.

10 **DEFENDANTS**

11 4. The City of Santa Rosa is a municipality in Sonoma County, California, and is  
12 responsible for enacting and enforcing zoning and land use laws within its jurisdiction.

13  
14 5. La Esplanada Unit 1 Owners' Association is a homeowners' association that  
15 adopts and enforces compliance with rules, including restrictive covenants, governing a  
16 condominium development called "La Esplanada" located in Santa Rosa, California.

17 **FACTUAL ALLEGATIONS**

18  
19 6. On June 3, 2009, a real estate developer, La Esplanada, Inc., through its  
20 representative, Renan Dominguez (hereinafter "the applicant"), applied to the City of Santa Rosa  
21 ("City") to rezone a 5-acre parcel of land located at 275 Colgan Avenue in Santa Rosa,  
22 California for the purpose of building a 120-unit condominium development exclusively for  
23 seniors.

24  
25 7. On April 4, 2000, the City granted the applicant's request for rezoning and  
26 enacted Ordinance No. 3470, which changed the classification of the property at issue from a  
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1 “multi-family residential district (“R-3-20”) to “multi-family residential planned development”  
2 (R-3-PD”).

3 8. Ordinance No. 3470 specifies, among other things, that this designation  
4 authorizes “Multifamily Senior Residential Land Use in conformance with the City’s Density  
5 Bonus Ordinance and the Land Use Element of the City’s General Plan which designates the site  
6 for Medium Density Land Use.”  
7

8 9. The 120-unit condominium development named “La Esplanada” was built in two  
9 phases.

10 10. Phase I of La Esplanada consists of thirty-six (36) units. It covers three buildings  
11 with twelve units in each building. It is located at the following addresses: 1501 La Esplanada  
12 Place; 1591 La Esplanada Place; and 1611 La Esplanada Place.  
13

14 11. Phase II of La Esplanada consists of eighty-four (84) units. It covers seven  
15 buildings with twelve units in each building. It is located at the following addresses: 1511 La  
16 Esplanada Place; 1531 La Esplanada Place, 1541 La Esplanada Place; 1551 La Esplanada Place;  
17 1561 La Esplanada Place; 1571 La Esplanada Place; and 1581 La Esplanada Place.  
18

19 12. Phases I and II constitute the “subject property.”

20 13. In or about March 2003, a homeowners’ association called “La Esplanada Unit 1  
21 Owners’ Association” (“HOA”) was incorporated with regard to Phase I.

22 14. On or about March 10, 2003, the HOA recorded in the Sonoma County  
23 Recorder’s Office a document titled “Declaration of Covenants, Conditions and Restrictions of  
24 La Esplanada Unit 1-A Condominium” (hereinafter “CC&Rs”).  
25

26 15. The CC&Rs state in §18.02, in relevant part, as follows: “This project is a  
27 development designed to provide housing for Senior Citizens and is intended to qualify as a  
28

1 senior citizen housing development within the meaning of Civil Code §51.3(b)(4). On  
2 commencement of occupancy of the Unit, at least one resident must be a Senior Citizen who  
3 intends to reside in the Unit as his or her primary residence on a permanent basis. All other  
4 residents must qualify under one of the following categories: (i) the resident is 45 years or older;  
5 (ii) the resident is the Spouse of the Senior Citizen; (iii) the resident and the Senior Citizen are  
6 cohabitants; (iv) the resident is providing the primary physical or economic support to the Senior  
7 Citizen; (v) the resident is a Qualified Disabled Resident; or (vi) the resident is a Permitted  
8 Health Care Resident.”

10 16. Section 18.01 of the CC&Rs defines a “Senior Citizen” as “a person 55 years of  
11 age or older.”

13 17. On April 11, 2004, the HOA resolved to amend the CC&Rs by reducing the  
14 minimum age requirement for residents from 55 to 40 years, and recorded the amendment with  
15 the Sonoma County Recorder’s Office on November 9, 2004.

16 18. By December 2005, all 36 units in Phase I had been sold.

18 19. On or about December 28, 2005, La Promenade Villas, LLC (“LPV”), through its  
19 representative, Vladimir Abramov, purchased from the developer, La Esplanada Inc., the land on  
20 which the Phase II units were to be built.

21 20. On or about March 23, 2006, the HOA recorded with the Sonoma County  
22 Recorder’s Office a resolution repealing the 2004 amendment regarding minimum age  
23 requirements, and re-instated the original 55-and-over age restriction.

25 21. On or about January 31, 2007, LPV, through Mr. Abramov, executed a series of  
26 documents each entitled “Declarations of Annexation.” Each Declaration of Annexation related  
27 to a separate phase of development within Phase II and together covered all 84 units in Phase II.  
28

1 Under ¶ D of each Declaration of Annexation, LPV declared that each grouping of Phase II units  
2 were to be “held, sold, leased, transferred, occupied and conveyed subject to the terms,  
3 provisions, conditions, restrictions and easements of the Declaration [the CC&Rs] as amended.”

4 22. LPV completed construction of the Phase II units in July 2007.

5 23. In 2008, LPV began to lease Phase II units to tenants, some of whom included  
6 families with children under the age of 18 years.  
7

8 The HOA Enforced the CC&Rs Against LPV

9 24. On or about December 11, 2008, the HOA sent a “Notice of Violation of CC&Rs”  
10 (“Notice”) to LPV’s representative demanding that LPV comply with the CC&Rs “so that at  
11 least one resident in each unit owned by LPV be 55 years of age or older and any residents less  
12 than 55 years old qualify as Qualified Permanent Residents under Civil Code section 51.3.” In  
13 the Notice, the HOA relied on the Declarations of Annexation for its assertion that it had  
14 enforcement authority over the Phase II units. The HOA also stated in the Notice that it  
15 “understands that LPV will have to give proper notice of lease termination to tenants who do not  
16 meet the age restrictions of the [CC&Rs],” and “demands that LPV bring all of its units into  
17 compliance on or before February 2, 2009.” The HOA indicated that it “may proceed with  
18 disciplinary action as provided in the [CC&Rs] under California law for any units that are not in  
19 compliance with the Declaration on February 2, 2009.”  
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22 25. The HOA cannot demonstrate that, as of December 2008, it had age verification  
23 procedures for routinely determining the occupancy of either Phase I or Phase II units consistent  
24 with the Housing for Older Persons Act (HOPA) exemption in 42 U.S.C. §3607(b) of the Fair  
25 Housing Act and HUD’s implementing regulations.  
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The City of Santa Rosa Enforced Its Zoning Code against LPV

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2           26.     In a letter dated January 22, 2009, the City of Santa Rosa, through its  
3 representative, the Building Inspector and Code Enforcement Officer, notified LPV that it had  
4 received a complaint that LPV's "condominium units are being rented/leased to tenants under 55  
5 years of age, in violation of the R-3-PD zoning, which limits the occupancy to senior citizens  
6 exclusively." The City of Santa Rosa insisted that LPV contact the City to resolve any violations  
7 at the property.  
8

9           27.     In March 2009, LPV, through Vladimir Abramov, met with City representatives  
10 who insisted that LPV comply with the 55-and-over age restriction in its leasing of Phase II  
11 units.  
12

13           28.     In a letter dated July 7, 2009, the City informed LPV's representative that "there  
14 should be no lease or sale of any unit in violation of the age restriction of 55 years or older." The  
15 City requested information regarding any occupant currently residing in Phase II in violation of  
16 the age restriction so that it could evaluate "what would be a reasonable vacation process." The  
17 City also stated that it was the City's intent not to allow "any further violation of the age  
18 restrictions for the project." The City stated that if it did not receive the requested information  
19 by August 10, 2009 in conjunction with a proposal as to how the Phase II units would be brought  
20 into compliance with the age restrictions, the City would "be forced to consider this a continuing  
21 code violation and will take the appropriate response."  
22

23           29.     The City cannot demonstrate that, as of July 2009, it had age verification  
24 procedures for routinely determining the occupancy of either Phase I or Phase II units consistent  
25 with the Housing for Older Persons Act (HOPA) exemption in 42 U.S.C. §3607(b) of the Fair  
26 Housing Act and HUD's implementing regulations.  
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Defendants' Conduct Interfered with LPV's Leases to Families with Children

1  
2 30. At the time of the defendants' enforcement letters, families with children under  
3 the age of eighteen were leasing Phase II units from LPV.

4 31. As of the date of the filing of this Complaint, there continue to be Phase II units  
5 occupied by families with children under the age of eighteen. Some families have month to  
6 month leases and others have lease terms that have not yet expired.

7  
8 32. As a result of the defendants' conduct, LPV and Vladimir Abramov would have  
9 to discriminate against families with children by evicting them or refusing to renew their leases  
10 or face the defendants' enforcement measures.

11 33. As a result of the defendants' conduct, LPV and Vladimir Abramov would have  
12 to discriminate against families with children who are new applicants, seeking to live in Phase II  
13 units or face defendants' enforcement measures.  
14

**HUD ADMINISTRATIVE PROCESS**

15  
16 34. On September 16, 2009, Mr. Abramov filed a timely complaint with the United  
17 States Department of Housing and Urban Development ("HUD") against the City of Santa Rosa  
18 and "La Esplanada Homeowners' Association" pursuant to the Fair Housing Act, alleging  
19 discrimination on the basis of familial status.  
20

21 35. On January 31, 2011, Mr. Abramov amended the HUD complaint to include LPV  
22 as a complainant, amend the legal name of the homeowners' association to "La Esplanada Unit  
23 One Owners' Association" and allege additional violations of the FHA.  
24

25 36. Pursuant to 42 U.S.C. §§ 3610(a) and (b), the Secretary of HUD conducted and  
26 completed an investigation of the complaint, attempted conciliation without success, and  
27 prepared a final investigative report. Based on the information gathered in the investigation, the  
28

1 Secretary, pursuant to 42 U.S.C. § 3610(g)(1), determined that reasonable cause existed to  
2 believe that illegal discriminatory housing practices had occurred. Therefore, on September 1,  
3 2011, the Secretary issued a Charge of Discrimination, pursuant to 42 U.S.C. §§ 3610(g)(2)(A),  
4 charging the defendants with engaging in discriminatory practices, in violation of the Fair  
5 Housing Act.

6  
7 37. On September 19, 2011, the HOA elected to have the claims asserted in HUD's  
8 Charge of Discrimination resolved in a civil action in federal district court pursuant to 42 U.S.C.  
9 §3612(a).

10 38. On September 20, 2011, HUD'S Office of Administrative Law Judges issued a  
11 Notice of Election, and terminated the administrative proceeding on the HUD complaint.

12  
13 39. Following this Notice of Election, the Secretary authorized the Attorney General  
14 to commence a civil action pursuant to 42 U.S.C. §3612(o).

15  
16 **FIRST CLAIM FOR RELIEF**

17 40. Plaintiff re-alleges and incorporates by reference the allegations set forth above.

18 41. The subject property constitutes a "dwelling" within the meaning of the Fair  
19 Housing Act, 42 U.S.C. § 3602(b).

20  
21 42. "Familial status" means, in relevant part, "one or more individuals (who have not  
22 attained the age of 18 years) being domiciled with—(1) a parent or another person having legal  
23 custody of such individual or individuals; or (2) the designee of such parent or other person  
24 having such custody, with the written permission of such parent or other person." 42 U.S.C.  
25 § 3602(k).  
26  
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1 43. By the actions and statements referred to in the foregoing paragraphs, defendants  
2 have:

- 3 a. Refused to rent, refused to negotiate for the rental of, or otherwise made  
4 unavailable or denied a dwelling because of familial status, in violation of 42  
5 U.S.C. § 3604(a);  
6  
7 b. Imposed terms, conditions, or privileges of sale or rental of a dwelling  
8 because of familial status, in violation of 42 U.S.C. § 3604(b);  
9  
10 c. Made statements with respect to the rental of a dwelling that indicated a  
11 preference, limitation, or discrimination based on familial status, in violation  
12 of 42 U.S.C. § 3604(c);  
13  
14 d. Represented to any person because of familial status that a dwelling is not  
15 available for inspection, sale or rental when such dwelling is in fact so  
16 available, in violation of 42 U.S.C. § 3604(d); and  
17  
18 e. Coerced, intimidated, threatened, or interfered with a person in the exercise or  
19 enjoyment of, or on account of her having exercised or enjoyed, their rights  
20 granted or protected by section 804 of the Fair Housing Act, in violation of  
21 42 U.S.C. § 3617.

22 44. LPV and Vladimir Abramov are “aggrieved persons” as defined in 42 U.S.C.  
23 § 3602(i), and have suffered and continue to suffer damages as a result of defendants’  
24 discriminatory conduct.

25 45. The defendants’ actions described above were intentional, willful, and taken in  
26 disregard for the rights of others.

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**SECOND CLAIM FOR RELIEF**

46. Plaintiff re-alleges and incorporates by reference the allegations set forth above.

47. Defendants' actions, conduct, and statements, as described above, constitute:

a. A pattern or practice of resistance to the full enjoyment of rights granted by the Fair Housing Act, 42 U.S.C. §§ 3601–3631, in violation of 42 U.S.C.

§ 3614(a); or

b. A denial to a group of persons of the rights granted by the Fair Housing Act, 42 U.S.C. §§ 3601–3631, which raises an issue of general public importance, in violation of 42 U.S.C. § 3614(a).

48. In addition to Vladamir Abramov and LPV, other persons, including families with children under the age of eighteen may have been injured by defendants' discriminatory actions and practices as described above. Such individuals are also "aggrieved persons" under the Fair Housing Act, 42 U.S.C. § 3602(i).

49. The discriminatory actions of defendants were intentional, willful, and taken in disregard of the federally protected rights of others.

**PRAYER FOR RELIEF**

Wherefore, the United States prays that the Court enter an Order that:

1. Declares that the defendants' discriminatory policies and practices as set forth above violate the Fair Housing Act, 42 U.S.C. §§ 3601 *et. seq.*

2. Declares that defendants have engaged in a pattern or practice of discrimination in violation of the Fair Housing Act, or have denied rights guaranteed under the Fair Housing Act to a group of persons, which denial raises an issue of general public importance;

1  
2 3. Enjoins the defendants, their representatives, agents, employees, successors, and all  
others in active concert or participation with any of them from:

- 3 a. Discriminating on the basis of familial status in any aspect of the rental or  
4 lease of a dwelling and in the denial or the making of housing unavailable;  
5  
6 b. Stating any preference, limitation, or discrimination on the basis of  
7 familial status;  
8  
9 c. Representing to any person because of familial status that a dwelling is not  
10 available for inspection, sale, or rental when such dwelling is in fact so  
11 available;  
12  
13 d. Coercing, intimidating, threatening, or interfering with any person in the  
14 exercise or enjoyment of, or on account of their having exercised or  
15 enjoyed, their rights under the Fair Housing Act;  
16  
17 e. Failing or refusing to take such affirmative steps as may be necessary to  
18 restore, as nearly as practicable, the victims of the defendants' past  
19 unlawful practices to the position they would have been in but for the  
20 discriminatory conduct;  
21  
22 f. Failing or refusing to take such steps as may be necessary to prevent  
23 recurrence of any discriminatory conduct in the future and to eliminate, to  
24 the extent practicable, the effects of defendants' unlawful housing  
practices.

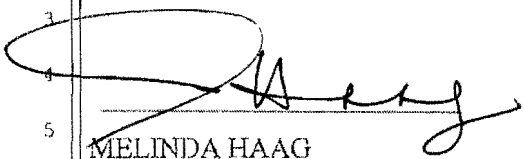
25 4. Awards monetary damages, pursuant to 42 U.S.C. §§ 3612(o)(3), 3613(c)(1), and  
26 3614(d)(1)(B), to each identifiable victim harmed by defendants' discriminatory  
27 practices; and,  
28

1           5. Assesses a civil penalty against defendants to vindicate the public interest pursuant  
2           to 42 U.S.C. § 3614(d)(1)(C).

3 The United States further prays for such additional relief as the interests of justice may require.  
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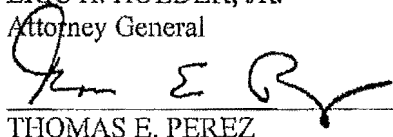
Dated: November 21, 2011



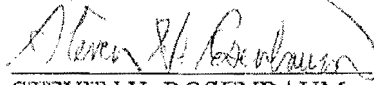
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Respectfully submitted,

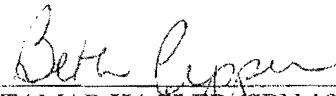
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