

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

UNITED STATES OF AMERICA,

Plaintiff,

and

FAIR HOUSING PARTNERSHIP OF  
GREATER PITTSBURGH, INC.; HOUSING  
EQUALITY CENTER OF PENNSYLVANIA;  
and NATIONAL FAIR HOUSING  
ALLIANCE,

Plaintiffs-Intervenors,

v.

AION MANAGEMENT, LLC; LELAND  
POINT OWNER, LP; AP COSMOPOLITAN,  
LLC; AP GREENSPRING, LLC; AP  
LIVINGSTONE, LLC; AION UNIVERSITY  
VILLAGE, LLC; AP EAST POINTE, LLC;  
and AP HUNTERS CROSSING, LLC,

Defendants.

Case No. 1:23-cv-00742-GBW

DEMAND FOR JURY

**COMPLAINT-IN-INTERVENTION**

Plaintiffs-Intervenors Fair Housing Partnership of Greater Pittsburgh, Inc. (“FHP”), Housing Equality Center of Pennsylvania (“HECP”), and National Fair Housing Alliance (“NFHA”), by and through undersigned counsel, allege as follows:

**INTRODUCTION**

1. Defendant AION Management, LLC (“AION”) is a rapidly growing, privately held property management company that manages 70 rental apartment communities in seven mid-Atlantic and Midwest states: Delaware, Pennsylvania, New Jersey, Maryland, Virginia, Indiana, and Ohio. Currently, AION-managed properties include approximately 21,000

individual apartment units. Defendants Leland Point Owner, LP; AP Cosmopolitan, LLC; AP Greenspring, LLC; AP Livingstone, LLC; AION University Village LLC; AP East Pointe, LLC; and AP Hunters Crossing, LLC (collectively, the “Owner Defendants”) each owned an AION-managed apartment rental community at all relevant times.

2. In 2020, Plaintiffs-Intervenors FHP, HECP, and NFHA, all of which are nonprofit fair housing organizations, conducted a year-long investigation involving numerous housing discrimination tests at multiple AION-managed properties in Delaware and Pennsylvania. This lengthy investigation revealed that AION has a company-wide policy or practice—utilized by at least seven properties it managed in 2020—of denying reasonable accommodations to current and prospective tenants with physical disabilities who require an assigned parking space to access, use, and enjoy their homes.

3. A reasonable accommodation is a change in rules, policies, practices, or services by a housing provider that enables a person with a disability an equal opportunity to use and enjoy a dwelling.

4. A reserved parking space is commonly requested as a reasonable accommodation by individuals with a mobility impairment or other disability that makes walking, or walking more than short distances, difficult. Where parking is otherwise available to residents on a first-come, first-served basis, a resident with such a disability may need an assigned or reserved space near the resident’s unit to have an equal opportunity to use and enjoy that dwelling. Not every person with a mobility impairment needs an accessible, extra-wide ADA or “handicapped” parking space. A regular-size parking space in close proximity to the resident’s front door may suffice.

5. Since 2004, the United States Department of Justice (“DOJ”) and Housing and Urban Development (“HUD”) (collectively, the “Departments”) have specifically recognized in fair housing guidance that assigned parking spaces may be a reasonable accommodation for residents with mobility impairments. In a 2004 guidance, the Departments explained that if “[a] housing provider has a policy of providing unassigned parking spaces to residents,” and makes all spaces (including accessible spaces) available on a first-come, first-served basis, the housing provider “*must* make an exception to its policy of not providing assigned parking spaces to accommodate” a resident with a mobility impairment who requests an assigned space close to the entrance to her unit as a reasonable accommodation.<sup>1</sup>

6. Despite this longstanding guidance, Plaintiffs-Intervenors’ investigation revealed that multiple AION properties refuse, as a matter of policy, to consider reasonable accommodation requests by prospective tenants with disabilities who require an assigned parking space to access and enjoy their homes.

7. From January 2020 to December 2020, FHP, HECP, and NFHA conducted tests at multiple AION-managed properties in Delaware and Pennsylvania, including the seven properties owned by the Owner Defendants. At each property, Plaintiffs-Intervenors’ tester represented to a leasing agent that the tester was seeking rental housing with or for a family member with a mobility impairment. The tester then requested a reserved parking space to allow the family member with a disability an equal opportunity to use and enjoy the rental dwelling by minimizing the walking distance needed to access the dwelling. The leasing agents each of the Owner Defendants’ seven properties gave the testers a virtually identical response immediately

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<sup>1</sup> U.S. Dep’t of Justice & U.S. Dep’t of Hous. & Urban Dev., *Joint Statement of the Department of Housing and Urban Development and the Department of Justice: Reasonable Accommodations Under the Fair Housing Act 6* (May 17, 2004), available at <https://www.hud.gov/sites/documents/huddojstatement.pdf> (emphasis added).

and plainly denying the tester’s reasonable accommodation request. In each case, the agent told the tester that the property only provided parking (including designated accessible, or “handicapped,” spaces) on a first-come, first-served basis and would not offer reserved parking to the family member with a disability.

8. Defendants could assign parking spots to individuals with disabilities who need them to access and enjoy their homes with undue financial and administrative burdens, just as other housing providers have for many years.

9. Plaintiffs-Intervenors bring this action under Title VIII of the Fair Housing Act, as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C. §§ 3601–3619, to challenge AION’s unlawful policy or practice of refusing to assign parking spaces as a reasonable accommodation for persons with mobility impairments—as implemented and enforced by AION and the Owner Defendants—which has the purpose and effect of discriminating against tenants with disabilities and discouraging rental applicants with disabilities from applying to live in the Owner Defendants’ properties and other AION-managed properties.

#### **JURISDICTION AND VENUE**

10. This Court has jurisdiction over this action under 42 U.S.C §§ 3612(o) and 3613(a), and 28 U.S.C. §§ 1331, 1343, and 1345.

11. Venue is proper in this District under 28 U.S.C. § 1391(b) because Defendants are incorporated in and are residents of the District, and because a substantial part of the events or omissions giving rise to the United States’ and Plaintiffs-Intervenors’ claims occurred in the District.

## PARTIES

12. Plaintiff is the United States of America.

13. Plaintiff-Intervenor Fair Housing Partnership of Greater Pittsburgh, Inc. (“FHP”) is a nonprofit organization based in Pittsburgh, Pennsylvania, that focuses on promoting equal housing choice in southwestern Pennsylvania. FHP engages in fair housing advocacy and enforcement, community education and outreach, and Fair Housing Act training support for housing providers and government officials. FHP’s activities include investigating housing discrimination claims, assisting clients with filing fair housing complaints, and referring fair housing complaints to attorneys.

14. Plaintiff-Intervenor Housing Equality Center of Pennsylvania (“HECP”) is a nonprofit organization based in Fort Washington, Pennsylvania. HECP is dedicated to promoting fair and equal access to housing opportunities throughout Pennsylvania. HECP provides services for victims of housing discrimination that include fair housing counseling, guidance on filing housing discrimination complaints, and referrals to social service agencies, government agencies, and attorneys. HECP also investigates fair housing claims; conducts testing to help housing discrimination victims; provides education and training programs for housing professionals, nonprofits, and housing authorities; and publishes fair housing resources to assist the public and housing professionals. HECP provides services for Bucks, Chester, Delaware, Lehigh, Montgomery, Northampton, and Philadelphia Counties in Pennsylvania.

15. Plaintiff-Intervenor National Fair Housing Alliance (“NFHA”) is a national fair housing rights organization based in Washington, DC, dedicated to eliminating housing discrimination and ensuring equitable housing opportunities. NFHA’s activities include education and outreach, member services, public policy, advocacy, housing and community

development, tech equity, enforcement, and consulting and compliance programs. NFHA also conducts intake of discrimination allegations and connects individuals with fair housing organizations and other resources who will provide investigation and advocacy services.

16. Defendant AION Management, LLC (“AION”), a limited liability company, is a privately held property management company. AION manages approximately 70 residential apartment communities in Delaware, Pennsylvania, Indiana, Maryland, New Jersey, Ohio, and Virginia, which collectively include over 21,000 apartments. AION was incorporated in Delaware in 2017 and is headquartered in Philadelphia, Pennsylvania. As a property manager, AION performs functions including marketing, processing tenant applications, hiring and managing apartment community personnel, managing finances, managing and operating facilities, and providing legal compliance deadlines.

17. Defendant Leland Point Owner, LP is a limited partnership incorporated in Delaware in 2011. At all relevant times, Leland Point Owner, LP owned The Alden South Hills, a rental apartment community located at 5492 Youngridge Drive, Pittsburgh, Pennsylvania 15326. The Alden South Hills is, and at all relevant times was, managed by Defendant AION.

18. Defendant AP Cosmopolitan, LLC is a limited liability company that was incorporated in Delaware in 2019. At all relevant times, AP Cosmopolitan, LLC owned Cosmopolitan Apartments, a rental apartment community located at 3001 McKnight East Drive, Pittsburgh, Pennsylvania 15237. Cosmopolitan Apartments is, and at all relevant times was, managed by Defendant AION.

19. Defendant AP Greenspring, LLC is a limited liability company that was incorporated in Delaware in 2018. At all relevant times, AP Greenspring, LLC owned Greenspring Apartment Homes, a rental apartment community located at 100 Bridlewood Way, York,

Pennsylvania 17402. Greenspring Apartment Homes is, and at all relevant times was, managed by Defendant AION.

20. Defendant AP Livingstone, LLC is a limited liability company that was incorporated in Delaware in 2018. At all relevant times, AP Livingstone, LLC owned Livingstone Apartment Homes, a rental apartment community located at 240 East County Line Road, Hatboro, Pennsylvania 19040. At all relevant times, Livingstone Apartment Homes was managed by Defendant AION.

21. Defendant AION University Village, LLC is a limited liability company incorporated in Delaware in 2015. At all relevant times, AION University Village, LLC owned Liberty Pointe Apartment Homes, a rental apartment community located at 207 Mederia Circle, Newark, Delaware 19702. Liberty Pointe Apartment Homes is, and at all relevant times was, managed by Defendant AION.

22. Defendant AP East Pointe, LLC is a limited liability company incorporated in Delaware in 2018. At all relevant times, AP East Pointe, LLC owned Hillside Pointe Apartment Homes, a rental apartment community located at 2610 Philadelphia Pike, Claymont, Delaware 19702. At all relevant times, Hillside Pointe Apartment Homes was managed by Defendant AION.

23. Defendant AP Hunters Crossing, LLC is a limited liability company incorporated in Delaware in 2017. At all relevant times, AP Hunters Crossing LLC owned Hunters Crossing Apartment Homes, a rental apartment community located at 41 Fairway Road, Newark, Delaware 19711. Hunters Crossing Apartment Homes is, and at all relevant times was, managed by Defendant AION.

## **FACTUAL ALLEGATIONS**

### **Plaintiffs-Intervenors' Investigation**

24. In the fall of 2019, FHP received a report of a tenant with a disability who was allegedly forced to move out of an AION property in Pennsylvania by AION employees after the tenant's request for a reasonable accommodation for the tenant's disability was denied.

25. FHP, HECP, and NFHA agreed to jointly investigate the subject properties to evaluate Defendants' reasonable accommodations process. Specifically, FHP, HECP, and NFHA sought to determine if Defendants were making units available to tenants or applicants who have a disability-related need for an assigned parking space.

26. From January 2020 through December 2020, FHP, HECP, and NFHA conducted multiple telephone, email, and in-person tests to determine if Defendants would allow tenants with a disability-based need for an assigned parking spot to obtain one as a reasonable accommodation at The Alden South Hills, Cosmopolitan Apartments, Greenspring Apartment Homes, Livingstone Apartment Homes, Liberty Pointe Apartment Homes, Hillside Pointe Apartment Homes, and Hunters Crossing Apartment Homes. As described below, Defendants told testers that they would not assign parking spots to tenants with disabilities. During the tests, no AION employee responded to a tester's reasonable accommodation request by asking questions about the tester's or their family member's individual disability-related needs or circumstances.

### **The Alden South Hills**

27. The Alden South Hills ("The Alden") is a 1,050-unit garden-style rental apartment community in Pittsburgh, Pennsylvania. The Alden offers studio, one-, two-, and three-bedroom rental apartments.

28. On January 15, 2020, an FHP tester took an in-person tour of The Alden, posing as a prospective applicant for a rental apartment. An AION-employed leasing agent who identified herself as “Emily” gave the tester a tour of the community. During the tour, the tester told Emily that the tester’s husband suffered from physical impairments that limited his ability to walk long distances and affected his dexterity.

29. On January 28, 2020, the same FHP tester called The Alden’s leasing office and asked to speak with Emily, who was unavailable. The tester received a return call from another AION-employed leasing agent who identified herself as “Angela.” The tester explained that she had toured the community with Emily and now had follow-up questions. The tester repeated to Angela that her husband had limited dexterity and mobility, and, for that reason, asked whether The Alden would be able to provide an assigned parking space close to the entrance to any unit they might rent and to install a keypad to enable access to an apartment door.

30. Angela responded that the tester’s request for a keypad would be considered a reasonable accommodation request that would require completion of a document and submission to the corporate office for approval. Angela further responded that parking spaces in The Alden’s parking lots were first-come, first-served. She explained that she was a new employee and would have to verify her answers, and that either she or Emily, the leasing agent who had previously given the tester a tour, would call the tester back.

31. About 30 minutes later, Emily called the tester back. The tester reiterated to Emily that she needed to know whether a keypad could be installed, and a parking space assigned for her husband, to address his dexterity and mobility problems. Consistent with Angela’s answers, Emily responded that the keypad request would have to be approved by the corporate

office as an accommodation and that parking spaces were not assigned and were available only on a first-come, first-served basis.

32. On May 1, 2020, a second FHP tester called The Alden's leasing office. The call was answered by Angela. The tester informed Angela that she was looking for a rental unit for herself and her sister, and that her sister has a disability and would need a parking spot close to the entrance. Angela stated they could not assign a specific parking spot to one person, but that first-come, first-served "handicapped" parking spots were available in parking structures near two specific units at The Alden that soon would be available.

### **Cosmopolitan Apartments**

33. Cosmopolitan Apartments ("Cosmopolitan") is a 149-unit rental apartment community in a mid-rise building in Pittsburgh, Pennsylvania. Cosmopolitan offers one- and two-bedroom rental apartments.

34. On August 28, 2020, an FHP tester called Cosmopolitan and spoke to an AION-employed leasing associate who identified herself as "Janine." The tester stated that she was looking for a rental unit for herself and her husband. The tester informed Janine that her husband had a disability, he at times used a walker, and was unable to walk more than 100 feet without needing to rest. The tester asked if it would be possible to assign her husband a parking space near the entrance of the building. Janine responded that there were handicapped parking spaces outside and that tenants could rent assigned parking spaces in an indoor garage for a fee.

35. On September 2, 2020, the same tester made another call to Cosmopolitan. The call was answered by another AION employee who identified himself as "Bobby." After explaining that she had already spoken to Janine, the tester noted she had a few follow-up questions. During this call, the tester again explained that her husband has a disability that

prevents him from walking more than 100 feet at a time and that he often needs to take breaks, use a walker, or both. The tester stated she understood that reserved parking spaces near the building's entrance could be rented in the garage, but she wanted to clarify whether an outdoor spot could be reserved near an entrance free of cost. Bobby responded that outside handicapped parking spots were available on a first-come, first-served basis, and that outdoor spaces could not be assigned to one person.

36. On September 17, 2020, a second FHP tester called Cosmopolitan and was connected with Janine, the leasing agent who originally spoke with the first tester. The tester informed Janine that she was looking for a unit to share with her husband who has a disability that makes him use crutches or a walker, and that her husband was unable to walk more than 100 feet at a time without rest. The tester asked if it would be possible to reserve a parking spot for her husband close to the entrance of Cosmopolitan. Janine responded that they had a couple of handicapped parking spots outside, but that she could not guarantee one would always be open. Janine noted that there were also spots inside a garage that could be reserved, but only for a fee.

### **Greenspring Apartment Homes**

37. Greenspring Apartment Homes ("Greenspring") is a 276-unit, garden-style apartment community located in York, Pennsylvania. Greenspring offers one-, two-, and three-bedroom rental apartments.

38. On December 8, 2020, an FHP tester called Greenspring and spoke to an AION employee identifying herself as "Janette." The tester said that she and her husband were looking to rent an apartment, but she informed Janette that her husband has a disability that limits his mobility, that he sometimes uses crutches or a walker, and that he is limited to walking 100 feet. The tester asked if she and her husband could have a parking space assigned to them near

Greenspring's entrance. Janette responded that if a resident has a "handicapped" placard, or license plate, Greenspring could put up an "ADA sign." Janette also noted that there is a satellite parking lot with many spaces near one of the Greenspring buildings.

39. The tester understood Janette's response to mean that Greenspring would not assign a parking space as a reasonable accommodation. In a subsequent interview by a HUD staff member during HUD's investigation of Plaintiffs-Intervenors' discrimination complaint, Janette confirmed the tester's understanding that Greenspring would not assign a parking space as an accommodation to a tenant with a disability, stating, "it's not something we could do for one person and not another."

#### **Livingstone Apartment Homes**

40. Livingstone Apartment Homes ("Livingstone") is a low-rise, multi-building apartment community located in Hatboro, Pennsylvania. Livingstone offers one-, two-, and three-bedroom rental apartments.

41. On September 14, 2020, an HECP tester called Livingstone Apartment Homes and spoke to an AION employee named "Eric." The tester expressed interested in renting an apartment and asked about parking. Eric responded that Livingstone had off-street parking that was first-come, first-served. The tester then explained that they were calling on behalf of the tester's nephew, explaining that the nephew has difficulty walking due to an auto accident. The tester asked whether Livingstone had "handicapped" parking. Eric responded the property has a few handicapped spaces. The tester then asked if a parking space could be specifically designated for a tenant. In response, Eric said that Livingstone would not be able to reserve a specific "handicapped" spot, since those spaces were available only on a first-come, first-served basis.

### **Liberty Pointe Apartment Homes**

42. Liberty Pointe Apartment Homes (“Liberty Pointe”) is a 136-unit apartment community in Newark, Delaware. Liberty Pointe offers studio, one-bedroom, and two-bedroom rental apartments.

43. On November 17, 2020, a NFHA tester called Liberty Pointe and was connected with an AION employee identifying herself as “Jo.” The tester asked for information about upcoming vacancies for a two-bedroom apartment rental for herself and her husband. The tester explained that her husband has a physical disability, uses a walker, and has difficulty walking long distances.

44. The tester asked Jo if Liberty Pointe could assign a parking spot to her husband as near as possible to the entry of the building with an upcoming vacancy, regardless of whether the space was labeled as a handicapped space or not. Jo responded that Liberty Pointe did not assign parking spots and that parking was available only on a first-come, first-served basis. Jo also noted that there were “handicapped” spaces near the front of the apartment building.

45. In response, the tester expressly asked Jo whether Liberty Pointe could grant an exception to allow her husband an assigned spot due to his disability. In response, Jo stated that the husband’s only option would be to get a “handicapped” tag and use available “handicapped” parking spaces.

46. After further conversation, Jo put the tester on hold to discuss the request with her manager. Jo then returned to the call and informed the tester that, according to her manager, Liberty Pointe would be able to add another “handicapped” spot in front of the apartment building, and the tester’s husband could use that spot so long as he had a “handicapped” parking

tag. Jo clarified, however, that the spot would not be specifically reserved for the tester's husband and that anyone with a "handicapped" parking tag could use the additional spot.

### **Hillside Pointe Apartment Homes**

47. Hillside Pointe Apartment Homes ("Hillside Pointe") is a multi-unit apartment community in Claymont, Delaware, with one-, two-, and three-bedroom apartments.

48. On November 17, 2020, a NFHA tester called Hillside Pointe and spoke to an AION employee identifying herself as "Jamie." The tester explained that she wanted to obtain information about upcoming vacancies for a two-bedroom apartment rental for herself and her husband. The tester noted that her husband had a physical disability requiring the use of a cane, crutches, and a walker. The tester asked if Hillside Pointe could assign them a parking space as close as possible to the apartment unit they might rent because her husband gets fatigued by walking. Jamie responded that the property could add another "handicapped" parking space to its parking lot, but noted that the space could not be assigned specifically to the tester's husband and that anyone with the proper tags would be able to use that additional spot.

49. The tester then asked whether an exception could be made to allow the tester and her husband to be issued an assigned spot. The tester also clarified that the parking space need not be designated as a "handicapped" space. Jamie responded that she did not know the answer to the tester's question and would check with her attorney. The next day, Jamie emailed the tester, writing that her attorney had confirmed that Hillside Pointe would be able to designate an additional space near the entry of the building as a handicapped space, but reiterated that Hillside Pointe would *not* be able to assign a parking space to a specific apartment number.

50. On November 19, 2020, a NFHA employee responded from the tester's email account, assuming the identity of the tester, and wrote: "Hi Jamie, I relayed this to my husband

and he is still concerned someone's guest or another tenant may park there not realizing that it is meant for him. We appreciate you looking into this for us, but since we cannot get a reserved parking space for him, we won't be able to rent an apartment here." The email went unanswered.

### **Hunters Crossing Apartment Homes**

51. Hunters Crossing Apartments Homes ("Hunters Crossing") is a 680-unit garden-style apartment community in New Castle County, Delaware. Hunters Crossing has 58 buildings on a 33.2-acre property, with studio, one-, two-, and three-bedroom rental apartments.

52. On December 3, 2020, a NFHA tester called Hunters Crossing and reached an AION employee identified as "Tess." The tester expressed interest in upcoming vacancies for a two-bedroom apartment rental for herself and her husband. The tester explained that her husband has a physical disability and uses crutches and a walker, and that walking far distances makes him very fatigued. The tester asked whether Hunters Crossing could reserve a parking spot for them as close as possible to the apartment unit they might rent. Tess responded that other residents at the property had previously contacted the Delaware Division of Motor Vehicles (DMV) to purchase "handicapped" spots specifically assigned to their apartment numbers. The tester asked whether there were costs associated with the DMV request, and Tess responded that there was a cost but that this was handled between residents and the DMV.

53. The tester then explained that she and her husband did not need a parking space designated as accessible but instead simply needed a spot reserved for them. The tester asked whether Hunters Crossing could do this without the tester and her husband having to go to the DMV. In response, Tess said, "We will not do that."

### **Other AION Communities**

54. Plaintiffs-Intervenor HECP conducted similar tests at several other AION communities in Pennsylvania in 2020. HECP conducted tests of Cheltenham Station Apartment Homes in Philadelphia, Pennsylvania, from September 14-16, 2020; Franklin Commons Apartment Homes in Bensalem, Pennsylvania, on September 21, 2020; Wellington Apartment Homes in Hatboro, Pennsylvania, on September 23, 2020. Each of these rental apartment communities was managed by AION at the time of the tests. In each of these tests, the HECP tester asked an AION leasing agent whether “handicapped” spaces could be reserved for specific tenants or apartments. In each case, the AION leasing agents told the HECP testers that handicapped spaces could not be assigned or reserved for specific tenants or apartments.

### **HUD ADMINISTRATIVE COMPLAINT**

55. On April 7, 2021, FHP, HECP, and NFHA filed a timely complaint of housing discrimination against Defendants and other AION entities with HUD.

56. In accordance with 42 U.S.C. § 3610, the Secretary of HUD completed an investigation of the complaint, attempted conciliation without success, and prepared a final investigative report. After reviewing the information gathered in the investigation, the Secretary determined under 42 U.S.C. § 3610(g)(1) that reasonable cause existed to believe that Defendants had violated the Fair Housing Act.

57. On February 24, 2023, the Secretary issued a Charge of Discrimination under 42 U.S.C. § 3610(g)(2)(A), charging Defendants with engaging in discriminatory housing practices on the basis of disability. Specifically, HUD’s Charge of Discrimination alleged that Defendants’ denials of requests for reasonable accommodations involving assigned parking spaces violated 42 U.S.C. §§ 3604(c), 3604(f)(1), 3604(f)(2), and 3604(f)(3)(B), and their implementing

regulations, by making statements indicating preferences, limitations, and discrimination based on disability, and by failing to permit reasonable accommodations requested by Plaintiffs-Intervenors' testers, thereby making housing unavailable because of disability.

58. On March 9, 2023, Defendants elected under 42 U.S.C. § 3612(a) to have the claims in the HUD Charge resolved in a civil action filed in federal district court. On March 10, 2023, the HUD Administrative Law Judge issued a Notice of Election to Proceed in United States District Court.

59. Following the Notice of Election, the Secretary of HUD authorized the Attorney General to commence a civil action against Defendants under 42 U.S.C. § 3612(o). The Defendants and the United States entered into a tolling agreement extending the deadline for the United States to commence a civil action to July 7, 2023.

60. The United States filed this action against Defendants on July 7, 2023, and filed an amended complaint on October 10, 2023.

61. Plaintiffs-Intervenors now intervene in this action as a matter of right under 42 U.S.C. § 3614(e), seeking all relief available to them as is authorized to be granted to a plaintiff in a civil action under 42 U.S.C. § 3613.

#### **INJURIES TO PLAINTIFFS-INTERVENORS**

62. Plaintiffs-Intervenors FHP, HECP, and NFHA have each suffered injuries as a result of Defendants' unlawful actions.

63. Defendants' unlawful actions have frustrated Plaintiffs-Intervenors' missions as fair housing organizations and forced them to divert their limited resources from their typical activities, which include a range of educational, investigative, counseling, and referral services.

64. Instead of engaging in these usual activities that they otherwise would have performed, Defendants' unlawful housing practices forced Plaintiffs-Intervenors to identify and counteract Defendants' discriminatory actions by devoting time and resources to, and incurring out-of-pocket expenses for, among other activities:

- a. designing and conducting a lengthy year-long investigation of Defendants, including, but not limited to, researching facts and applicable rules and regulations; training and instructing testers regarding the testing of Defendants' rental properties; preparing and assigning tester profiles; planning, organizing, and coordinating tests and appropriate follow-up activities; analyzing the testers' reports; and expending organizational resources needed to conduct the investigation; and
- b. engaging in outreach to the community, including the creation and distribution of educational materials targeted to residents of the properties tested by Plaintiffs-Intervenors and surrounding communities in Pennsylvania and Delaware, with the objective of informing them, among other things, that the Fair Housing Act requires housing providers to grant assigned parking spaces as reasonable accommodations to individuals with disabilities who need them to use and enjoy their homes.

65. Because of the diversion of resources needed to respond to and counteract Defendants' unlawful actions, Plaintiffs-Intervenors were unable to engage in other mission-centric activities they had planned since 2019, including taking steps to develop and disseminate resources to enhance their outreach capabilities, conducting additional testing and outreach in

their respective service areas, developing grant proposals, and developing training curricula on other fair housing topics. Specifically:

- a. FHP's efforts to respond to and counteract Defendants' unlawful conduct required it to divert resources from or delay work on developing grant proposals, submitting grant deliverables activities; and planning for systemic testing projects and outreach activities on other issues. Because of Defendants' conduct, FHP diverted its proposed activities to focus on disability and reasonable accommodations, including that included altering a planned March 2021 webinar for NFHA's fair housing member organizations to focus on those issues, as well as shifting focus to those issues within the activities of FHP's proposed and awarded grant proposals.
- b. HECP's efforts to respond to and counteract Defendants' unlawful conduct required it to divert resources from or delay work on the following:  
developing grant proposals; planning for systemic testing projects on other issues; providing assistance to counties on their Affirmatively Furthering Fair Housing (AFFH) obligations under the Fair Housing Act; providing technical assistance on zoning compliance with fair housing laws; developing new educational materials; writing newsletters; developing training curricula for consumers, housing providers, and social service agency staff; and recruiting and hiring for a new staff position.
- c. NFHA was forced to delay or postpone fair housing investigations in other cities, funded by a federal Fair Housing Initiative Program Private Enforcement Initiative grant from HUD, which were planned to be conducted

from March 2020 to March 2021, because of funding and staff resources devoted to the investigation of Defendants. NFHA and FHP also altered a March 2021 webinar for NFHA's fair housing member organizations, originally intended to focus on other fair housing topics, on disability and reasonable accommodation issues as a result of Defendants' conduct. In 2021, NFHA created content for and published a social media post on Facebook, targeted at renters in Delaware and Pennsylvania, informing audiences that a housing provider's refusal to provide a reserved parking space as a reasonable accommodation for a disability may violate the Fair Housing Act. In October 2023, NFHA distributed this information to residents at five AION properties and surrounding communities in Delaware and Virginia through a direct mailing campaign.

66. Defendants' unlawful actions also frustrated and continue to frustrate the common missions of FHP, HECP, and NFHA to promote and ensure equal access to housing opportunities for all persons, including persons with disabilities and other persons protected by the Fair Housing Act and other fair housing laws. Defendants' discriminatory policies, practices, and statements have impaired and continue to impair Plaintiffs-Intervenors' efforts to ensure equal housing opportunities for people with disabilities, in frustration of their organizational missions. Defendants' unlawful actions have forced Plaintiffs-Intervenors to expend resources to conduct additional education, outreach, and remediation activities to counteract Defendants' discriminatory conduct and correct any confusion or misunderstanding of the right to reasonable accommodations, including the right to assigned parking when needed to accommodate a mobility-related impairment or other disability, under the Fair Housing Act and other applicable

fair housing laws. For example, in 2023, all three Plaintiffs-Intervenors sent postcards through the United States Postal Service's Every Door Direct Mail program to all residents on the mail routes of the AION properties tested in the investigation, focusing on raising awareness of the rights of persons with disabilities to seek reasonable accommodations from their housing providers, including assigned parking as an example of such an accommodation.

67. Plaintiffs' injuries have been, and continue to be, caused by Defendants' discriminatory policies, actions, and statements regarding reasonable accommodations for people with disabilities.

68. Unless enjoined, Defendants will continue to engage in unlawful acts and maintain their discriminatory policies and practices, further subjecting Plaintiffs-Intervenors to irreparable injury.

69. Defendants' conduct was intentional, wanton, malicious, and done in reckless disregard of the civil rights of persons with disabilities.

### **CAUSE OF ACTION**

#### **Violations of the Fair Housing Act, 42 U.S.C. § 3604**

70. Plaintiffs-Intervenors repeat and incorporate by reference all of the allegations set forth above.

71. Defendants have violated the Fair Housing Act by discriminating in the rental of a dwelling, or otherwise making unavailable or denying a dwelling, to a renter (or prospective renter) because of a disability, in violation of 42 U.S.C. § 3604(f)(1); discriminating in the terms, conditions, or privileges of rental of a dwelling, or in the provision of services or facilities in connection with such a dwelling, because of disability, in violation of 42 U.S.C. § 3604(f)(2); refusing to make reasonable accommodations in rules, policies, practices, or services, when such

an accommodation may be necessary to afford a person with a disability equal opportunity to use and enjoy the dwelling, in violation of 42 U.S.C. § 3604(f)(3)(B); and making, printing, or publishing, or causing to be made, printed or published statements with respect to the rental of a dwelling that indicated a preference, limitation or discrimination based on disability, or an intention to make any such preference, limitation, or discrimination, in violation of 42 U.S.C. § 3604(c).

72. As a result of Defendants' actions as set forth above, Plaintiffs-Intervenors have been injured and suffered damages.

73. Plaintiffs-Intervenors' resources were diverted, and their missions were frustrated, due to Defendants' discriminatory actions alleged above.

74. Defendants' actions were and continue to be intentional, wanton, malicious, and done in reckless disregard of the civil rights of persons with disabilities.

### **REQUEST FOR RELIEF**

WHEREFORE, Plaintiffs-Intervenors respectfully request that the Court:

- (a) Enter a declaratory judgment that the foregoing statements, actions, and policies of Defendants violate the Fair Housing Act, 42 U.S.C. § 3604;
- (b) Enter a permanent injunction prohibiting Defendants, their agents, employees, successors, and all other persons in active concert or participation with any of them from:
  - i. discriminating on the basis of disability by denying or refusing to consider reasonable accommodation requests for assigned parking spaces by any prospective or existing tenant who needs such a space because of a disability of that person or a member of their household;
  - ii. discriminating in the terms, conditions, or privileges of sale or rental of a

dwelling, or in the provision of services or facilities in connection therewith, on the basis of disability, by denying or refusing to consider reasonable accommodation requests for assigned parking spaces by any prospective or existing tenant who needs such as space because of a disability of that person or a member of their household;

- iii. stating any preference, limitation, or discrimination on the basis of disability, including by, *inter alia*, stating that assigned parking spaces are not available or will not be provided as a reasonable accommodation for a prospective or existing tenant who needs such a space because of a disability of that person or a member of their household; and
- iv. failing or refusing to take all affirmative steps necessary to remedy the effects of the illegal, discriminatory conduct described herein, and to prevent the recurrence of any discriminatory conduct in the future;

(c) Award compensatory damages to Plaintiffs-Intervenors in an amount to be determined by a jury that would fully compensate Plaintiffs-Intervenors for the injuries caused by Defendants' unlawful statements, actions, and policies alleged herein;

(d) Award punitive damages to Plaintiffs-Intervenors in an amount to be determined by a jury that would punish Defendants for the willful, malicious, and reckless conduct alleged in herein, and that would effectively deter similar conduct in the future;

(e) Award Plaintiffs-Intervenors their reasonable attorneys' fees and costs under 42 U.S.C. § 3613(c)(2); and

(f) Order such other relief as the Court deems just and equitable.

**JURY DEMAND**

Plaintiffs-Intervenors demand a trial by jury of all issues so triable.

DATED: November 29, 2023

Respectfully submitted,

/s/ John S. Whitelaw

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