

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF SUFFOLK

-----X  
PEOPLE OF THE STATE OF NEW YORK,  
by ANDREW CUOMO, ATTORNEY GENERAL  
OF THE STATE OF NEW YORK,

Petitioner,

NOTICE OF PETITION

--against--

Index No. \_\_\_\_\_

TRAMMEL CROW RESIDENTIAL CO.,  
TCR NORTHEAST PROPERTIES, INC.,  
YAPHANK APARTMENTS, LLC,  
PANTZER PROPERTIES, INC.,  
PANCO MANAGEMENT, CORP., and  
EAST END INVESTORS, LLC,

IAS Part \_\_\_\_\_  
Assigned to Justice \_\_\_\_\_

Respondents.

-----X

PLEASE TAKE NOTICE that upon the Petition, annexed hereto and verified on March 25, 2010, the affirmation of Brooke P. Davis affirmed on March 25, 2010, and exhibits annexed thereto, Petitioners will move the Court at the Motion Support Office Courtroom, Room \_\_\_\_, at 1 Court Street, Riverhead, New York, on the 12<sup>th</sup> day of April, 2010, at 9:30 o'clock in the forenoon, or as soon thereafter as counsel may be heard for an order and judgment:

1) Enjoining TCR Respondents, their officers, employees, agents, successors, and all other persons in active concert or participation with any of them from:

- a) Failing or refusing to bring the covered dwelling units and the public and common use areas at the Complex into compliance with the Fair Housing Act, 42 U.S.C. § 3604(f)(3)(C); the Human Rights Law, New York State Executive Law § 296(18)(3); and all applicable accessibility regulations;

- b) Failing or refusing to bring the public accommodations, including the leasing office, facilities, and accommodations appurtenant to that office such as parking, sidewalks, and restrooms into compliance with the accessibility requirements of the ADA, 42 U.S.C. § 12183(a)(1); 28 C.F.R. Part 36; Building Code §1101 *et seq.*; and all applicable accessibility regulations;
  - c) Failing or refusing to conduct a compliance survey at all covered multifamily dwelling units, public and common use areas, and public accommodations at the Complex to determine whether the retrofits were made properly;
  - d) Failing or refusing to take affirmative steps as may be necessary to restore, as nearly as practicable, persons harmed by TCR Respondents' unlawful practices to the position they would have been in but for the discriminatory conduct;
- 2) Enjoining Pantzer Respondents from engaging in conduct that denies access to the covered multifamily dwelling units, public accommodation, and common use areas at the Complex or the taking of any other action which hinders any retrofits required to bring the covered multifamily dwelling units, public accommodation, and common use areas into compliance with the accessibility provisions of the Fair Housing Act, the ADA, and the Human Rights Law to be done in a prompt and efficient manner.
- 3) Accessing civil penalties against TCR Respondents pursuant to New York State Civil Rights Law § 40-d.

- 4) Awarding Petitioner reasonable attorneys' fees and costs pursuant to 42 U.S.C. § 3613(c)(2).
- 5) Awarding monetary damages to all persons harmed by TCR Respondents' discriminatory conduct pursuant to 42 U.S.C. § 3613(c)(1).
- 6) Awarding such compensatory and punitive damages as against TCR Respondents as are proper under the law.
- 7) Awarding petitioners the costs of this proceeding, including \$2,000 in additional costs against respondent, pursuant to CPLR §8303 (a) (6).
- 8) Awarding such other and further relief that this Court may deem appropriate and equitable, including injunctive and declaratory relief as may be required in the interests of justice.

PLEASE TAKE FURTHER NOTICE, that respondents' answer and affidavits in opposition, if any, shall be served on petitioners at the address below seven (7) days prior to the return date pursuant to CPLR 403(b).

Dated: New York, NY  
March 25, 2010

Respectfully submitted,

ANDREW M. CUOMO  
Attorney General of the State of New York  
Attorney for Petitioners

CIVIL RIGHTS BUREAU

By:



ALPHONSO B. DAVID  
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SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF SUFFOLK

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PEOPLE OF THE STATE OF NEW YORK,  
by ANDREW CUOMO, ATTORNEY GENERAL  
OF THE STATE OF NEW YORK,

Petitioner,

VERIFIED PETITION

--against--

Index No.

TRAMMEL CROW RESIDENTIAL CO.,  
TCR NORTHEAST PROPERTIES, INC.,  
YAPHANK APARTMENTS, LLC,  
PANTZER PROPERTIES, INC.,  
PANCO MANAGEMENT, CORP., and  
EAST END INVESTORS, LLC,

Respondents.

-----X  
Petitioner, the People of the State of New York, by their attorney, ANDREW M.  
CUOMO, Attorney General of the State of New York, respectfully allege, upon  
information and belief:

**INTRODUCTION**

1. Petitioner brings this special proceeding pursuant to New York State Executive Law § 63(12) and the New York State and federal laws cited herein to enjoin Trammel Crow Residential Co. ("TCR"), TCR Northeast Properties, Inc. ("TCR Northeast"), and Yaphank Apartments, LLC ("Yaphank") (collectively TCR Respondents) from continuing to violate New York State and federal accessibility requirements.
2. TCR Respondents' actions have excluded and, despite warnings to stop, are continuing to exclude, persons with disabilities from access to a 795-unit residential complex known as Atlantic Point Apartments ("Complex").

## PARTIES AND JURISDICTION

3. Petitioner is the People of the State of New York, by its attorney, Andrew M. Cuomo, Attorney General of the State of New York (“Attorney General”).

4. The Attorney General brings this summary proceeding pursuant to New York State Executive Law § 63(12); New York State Human Rights Law, New York State Executive Law §§ 296(2),(5), and(18) (“Human Rights Law”); Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C. § 3604(f) (“Fair Housing Act”); and Title III of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12181-12183 (“ADA”) seeking injunctive relief, damages, and civil penalties against TCR Respondents for discriminating against people with disabilities by failing to design and construct the Complex in compliance with the accessibility requirements of the above cited New York State and federal laws.

5. New York State Executive Law § 63(12) empowers the Attorney General to seek injunctive relief, restitution, damages, and costs when any person or business entity has engaged in or otherwise demonstrated repeated or persistent illegal acts in the transaction of business.

6. The Human Rights Law, New York State Executive Law §§ 290-301; the Fair Housing Act, 42 U.S.C. §§ 3601-3619; and the ADA, 42 U.S.C. §§ 42 U.S.C. 12181-12189 require multi-family housing designed and constructed for first occupancy after March 13, 1991 to be designed and constructed in a manner that allows people with disabilities full use and enjoyment of covered apartments, common use areas, and public accommodation areas.

7. Furthermore, the Building Code of New York State §§ 1101 *et seq.* (“Building Code”) requires multifamily housing to be designed and constructed in a manner that is accessible for people with disabilities and has specific building requirements to ensure accessibility.

8. TCR is a corporation organized under the laws of the state of Texas with its principle place of business located at 3500 Peachtree Road, N.W., Suite 500, Atlanta, Georgia 30305. TCR is a diversified real estate company that, among other business activities, designs, constructs, manages, and/or owns residential apartments which are subject to federal accessibility requirements across the United States including New York. TCR conducts some of its business operations through a variety of controlled entities, including single purpose entities such as subsidiaries, limited liability corporations, and limited liability partnerships, which TCR owns and/or controls.

9. TCR Northeast is a corporation organized under the laws of the state of Delaware with its principle place of business located at 15 Danbury Road, Suite 100, Wilton, Connecticut 06987. TCR Northeast is owned and/or controlled by TCR. TCR Northeast designed and constructed the Complex and designs and constructs other multifamily residences in New York.

10. Yaphank is a limited liability company organized under the laws of the state of Delaware. TCR and/or TCR Northeast own and/or control Yaphank, which managed and owned the Complex until its sale.

11. Pantzer Properties, Inc. (“Pantzer”) is a corporation organized under the laws of the state of Delaware with its principle place of business located at 540 Madison Avenue, Suite 32A, New York 10022. Pantzer is a diversified real estate company that owns and

manages multifamily housing accommodations and commercial properties along the East Coast of the United States, including New York. Pantzer conducts some of its business operations through various affiliated corporations and limited liability partnerships.

12. Panco Management, Corp. (“Panco”) is a corporation organized under the laws of the state of Delaware with its principle place of business located at 540 Madison Avenue, Suite 32A, New York 10022. Panco is an affiliate of Pantzer and manages properties owned by Pantzer and its affiliates.

13. East End Investors, LLC (“East End”) is a limited liability corporation organized under the laws of the state of Delaware with a principle place of business located at 540 Madison Avenue, Suite 32A, New York 10022. East End is an affiliate of Pantzer and completed purchase of the Complex in 2004. East End and Panco continue to own and manage the Complex.

14. Pantzer, Panco, and East End (collectively, “Pantzer Respondents”) are necessary parties to this lawsuit in whose absence complete relief cannot be afforded to Petitioner.

#### **FAIR HOUSING LEGAL REQUIREMENTS**

15. Atlantic Point Apartments is a rental residential apartment complex located at 1220 Orchid Circle, Bellport, New York 11713. The Complex has 795 apartments and a variety of amenities, including a clubhouse, several pools, a fitness center, tennis courts, a business center, and playgrounds.

16. The apartments at the Complex are “dwellings” within the meaning of the Fair Housing Act, 42 U.S.C. § 3602(b); “housing accommodations” within the meaning of the Human Rights Law, New York State Executive Law § 292(10); and “dwelling units” within the meaning of 24 C.F.R. §§ 100.205(a), (c) and Building Code § 310.2.

17. The Complex was designed and constructed for first occupancy after March 13, 1991. The last certificate of occupancy for the Complex was issued in 2004 and, upon information and belief, construction was completed in the same year. All single-story ground floor units are “covered multifamily dwellings” within the meaning of the Fair Housing Act, 42 U.S.C. § 3604(f)(7); 24 C.F.R. §§ 100.205(a), (c); and the Human Rights Law, New York State Executive Law §§ 292(12), 296(18)(3).

18. The Complex contains 238 covered multifamily dwellings, which includes the unit design type identified by Respondents as “Amelia,” “Balam,” and “Chesterfield.” The Complex is subject to the accessibility requirements of the Fair Housing Act, 42 U.S.C. § 3604(f)(3)(C); 24 C.F.R. §§ 100.205(a), (c); the Human Rights Law, New York State Executive Law § 296(18)(3); and Building Code § 1107 *et seq.*

19. The Complex was constructed for first occupancy after January 26, 1993, and is subject to the prohibition on discrimination in the ADA, 42 U.S.C. § 12182(a) and Human Rights Law, New York State Executive Law § 296(2), and to the design and construction requirements of the ADA, 42 U.S.C. § 12183(a)(1) and the applicable accessibility regulations including, but not limited to, 28 C.F.R. Part 36, as well as Chapter 11 of the Building Code.

20. The Complex has a rental and leasing office, and facilities and accommodations appurtenant to that office, including parking, sidewalks and restrooms, which constitute “public accommodations” within the meaning of the ADA, 42 U.S.C. § 1281(7); and the Human Rights Law, New York State Executive Law § 292(9).

## FACTUAL BACKGROUND

21. Beginning in the Fall of 2008, the Attorney General conducted an investigation into whether recently constructed multifamily residential properties were designed and constructed in accordance with New York State and federal accessibility laws.
22. Specifically, undercover tests were conducted at a number of residential properties, including the Complex. Testers visited the Complex and told a rental agent that they were looking for an apartment for their relative who uses a wheelchair. When they were shown a model covered multifamily dwelling, the testers observed features that did not comply with the Fair Housing Act and the Human Rights Law accessibility requirements.
23. In response to the test results, the Attorney General issued a subpoena to Respondents, and retained registered architect Mark Mazz to conduct a comprehensive on-site inspection of the Complex. The inspection was designed to identify building features that did not comply with the Fair Housing Act, the Human Rights Law, the ADA, and applicable accessibility requirements.
24. Mark Mazz is a nationally-recognized expert in the field of accessible design and construction and compliance with the Fair Housing Act, ADA, and New York State accessibility laws. Mr. Mazz was employed by the United States Department of Justice, Housing and Civil Rights Enforcement and Disability Rights Section as an architect and at the Housing and Urban Development's Office of Fair Housing and Equal Opportunity as a senior advisor on accessibility issues. During his eight-year tenure with the federal government, Mr. Mazz surveyed residential properties to determine compliance with design and construction requirement of the Fair Housing Act, the ADA, and various state

accessibility laws. Mr. Mazz has appeared as an expert witness for the United States in their Fair Housing Act enforcement proceedings.

25. The Fair Housing Act, 42 U.S.C. § 3604(f)(3); the Human Rights Law, New York State Executive Law § 296(18)(3); and the applicable accessibility regulations require all covered units, as well as “public use and common use areas” associated with covered units, to contain certain features of minimum accessibility and adaptable design including:

- a. public-use and common-use areas readily accessible to, and usable by, individuals with disabilities;
- b. doors into and within covered units that are sufficiently wide to allow passage by persons with disabilities who use wheelchairs;
- c. the following features of adaptable design:
  - i. an accessible route into and through the dwelling;
  - ii. usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space;
  - iii. electrical outlets, thermostats and other environmental controls in accessible locations; and
  - iv. reinforcements in bathroom walls that allow for the installation of grab-bars.

17. Mark Mazz’s inspection revealed that covered dwelling units at the Complex exhibited, with varying frequency by unit design type, violations including, but not limited to, the following:

- a. doors in units that are not sufficiently wide so as to allow passage for people in wheelchairs into bedrooms, bathrooms, walk-in closets, or patios;
- b. units that do not provide an accessible route into and through the unit, including access to patios and garages;
- c. bathrooms that do not have sufficient clear floor space to allow a person in a wheelchair to maneuver about the space and utilize the sink and/or toilet;
- d. kitchens that do not have sufficient clear floor space to allow a person in a wheelchair to maneuver about the space and utilize the counter, sink and/or appliances;
- e. electrical outlets and thermostats that are located at heights or locations that are inaccessible to people with physical disabilities; and
- f. thresholds that are too high so as to bar access to the units to people in wheelchairs.

18. Mark Mazz's inspection also revealed that the common use areas of the Complex violated the Fair Housing Act and the Human Rights Law because the areas were designed and constructed in such a manner that they are not readily accessible to or usable by persons with disabilities. The following are examples of some of the violations in the common areas of the Complex:

- a. a lack of an accessible route to common use areas, including pools, playground, clubhouse, trash compactors, and other amenities, rendering the amenities not readily accessible to people in wheelchairs;

- b. restrooms that do not have sufficient clear floor space to allow a person in a wheelchair to maneuver about the space and utilize sinks and/or toilets;
- c. showers in bathhouses that do not have sufficient clear floor spaces inside and outside the stall to allow for a person in a wheelchair to maneuver into the space;
- d. lack of designated accessible parking at various amenities including, but not limited to, clubhouses, mailboxes, trash compactors, and playground;
- e. curb cuts and ramps throughout the Complex that are either obstructed or have slopes and/or cross slopes that render them inaccessible to people in wheelchairs; and
- f. doors that are not sufficiently wide or do not have enough maneuverability space beside them to allow for passage by people in wheelchairs.

19. The leasing office and accommodations appurtenant to the offices that are public accommodation areas are required to be designed and constructed in an accessible manner as required by the ADA, 42 U.S.C. § 12183(a)(1); the Human Rights Law, New York State Executive Law § 296(2); and the applicable accessibility regulations.

20. Mark Mazz's inspection revealed that that Complex also violates the accessibility requirements of the ADA and the Human Rights Law because the leasing office and accommodations appurtenant to the offices that are areas of public accommodation were designed and constructed in such a manner that the facilities were not readily accessible to and useable by persons with disabilities. The following are examples of some of the violations at the Complex:

- a. lack of designated accessible parking for the leasing office;

- b. lack of accessible route from parking to the leasing office; and
- c. restrooms that do not have sufficient clear floor space to allow a person in a wheelchair to maneuver about the space and utilize sinks and/or toilets.

21. Mark Mazz's inspection report, which details each violation of the Fair Housing Act, the Human Rights Law, the ADA, and the applicable accessibility regulations throughout the Complex, is attached to the Affirmation of Assistant Attorney General Brooke Davis and is incorporated by reference herein.

22. Through its design, construction, control, management, and/or ownership of the Complex, TCR Respondents have:

- a. discriminated in the rental of or otherwise made unavailable dwellings to persons because of their disabilities in violation of the Fair Housing Act, 42 U.S.C. § 3604(f)(1); and the Human Rights Law, New York State § 296(5)(a)(1);
- b. discriminated against persons because of their disabilities in the terms, conditions, or privileges of rental of a dwelling in violation of the Fair Housing Act, 42 U.S.C. § 3604(f)(2); and the Human Rights Law, New York State Executive Law § 296(5)(a)(2);
- c. discriminated against persons because of their disabilities in the full and equal enjoyment of services, facilities, privileges and accommodations of a place of public accommodation in violation of the ADA, 42 U.S.C. § 12182(a); and the Human Rights Law, New York State Executive Law § 296(2)(a); and

- d. failed to design and construct the Complex in compliance with the requirement mandated by the Fair Housing Act, 42 U.S.C. § 3604(f)(3); the ADA, 42 U.S.C. §1283(a)(1); the Human Rights Law, New York State Executive Law § 296(18)(3); and the applicable accessibility regulations.

23. TCR Respondents' discriminatory actions are on-going as the Complex's dwelling units, common use areas, and public accommodation areas remain not readily accessible to or useable by people with disabilities.

24. Further, TCR Respondents' discriminatory conduct extends beyond the Complex, as they have developed over 225,000 multi-family residences across the United States and continue to develop more, including two other properties in Long Island. All of the multi-family residences built after March 1991 are subject New York State and federal accessibility requirements.

**FIRST CAUSE OF ACTION**  
**PURSUANT TO NEW YORK STATE EXECUTIVE LAW § 63(12)**  
**VIOLATIONS OF THE FAIR HOUSING ACT 42 U.S.C. § 3604**

25. Petitioner repeats and re-alleges each and every allegation contained in paragraph 1 through 24.

26. The Fair Housing Act makes it unlawful to: (a) discriminate in the rental of, or otherwise make unavailable, or deny dwellings to persons because of their disabilities, 42 U.S.C. § 3604(f)(1); (b) discriminate against persons because of their disabilities in the terms conditions, or privileges of rental of a dwelling, or in the provision of services of facilities in connection with the rental of a dwelling, 42 U.S.C. § 3604(f)(2); and (c) fail to design and construct dwellings in compliance with the applicable accessibility regulations, 42 U.S.C. § 3604(f)(3), 24 C.F.R. § 100.205(c).

27. TCR Respondents failed to design and construct the Complex and its dwellings in compliance with the accessibility and adaptability features mandated by the Fair Housing Act, 42 U.S.C. § 3604(f)(3) and 24 C.F.R. § 100.205(c). The Complex, including its amenities and covered dwelling units, were designed in such a manner that renders them not readily accessible to and usable by people with disabilities.

28. TCR Respondents through their actions have discriminated in the rental of, or otherwise made unavailable, dwellings to renters because of their disability, and discriminated against persons with disabilities by denying them the same terms, conditions, privileges, and provision of services in renting the dwellings in violation of the Fair Housing Act, 42 U.S.C. §§ 3604(f)(1), (2).

29. The conduct of TCR Respondents constitutes a pattern and practice of denying people with disabilities the full enjoyment of rights granted by the Fair Housing Act, 42 U.S.C. §§ 3601-3619; and/or a pattern and practice of resistance to the full enjoyment of rights granted by the Fair Housing Act, 42 U.S.C. §§ 3601-3619.

30. Persons who may have been the victims of TCR Respondents' discriminatory housing practices are aggrieved persons as defined in the Fair Housing Act, 42 U.S.C. § 3602(i), and may have suffered injury as a result of the conduct described above.

31. TCR Respondents' conduct described above was intentional, willful, and taken in disregard for the rights of others.

**SECOND CAUSE OF ACTION**  
**PURSUANT TO NEW YORK STATE EXECUTIVE LAW § 63(12)**  
**VIOLATIONS OF THE ADA §§ 12181-12183**

32. Petitioner repeats and re-alleges each and every allegation contained in paragraph 1 through 31.

33. The ADA makes it unlawful to: (a) discriminate against persons because of their disability in the full and equal enjoyment of goods, services, facilities, privileges, advantages, or accommodations in a place of public accommodation, 42 U.S.C. § 12182(a); and (b) fail to design and construct public accommodations in compliance with the accessibility requirements of the ADA, 42 U.S.C. § 12183(a)(1); 28 C.F.R. Part 36; and the applicable accessibility regulations.
34. The leasing office, facilities, and accommodations appurtenant to that office including parking, sidewalks and restrooms constitute “public accommodations” within the meaning of the ADA, 42 U.S.C. § 1281(7).
35. TCR Respondents failed to design and construct parking, sidewalks, and restrooms appurtenant to the leasing office in compliance with the accessibility requirements mandated by the ADA, 42 U.S.C. § 12183(a)(1), and applicable accessibility regulations. The public accommodation areas were designed in such a manner that the facilities are not readily accessible to and usable by people with disabilities.
36. TCR Respondents through their actions have discriminated against persons with disabilities in the enjoyment of services, facilities, privileges, and accommodations of a place of public accommodation in violation of the ADA, 42 U.S.C. § 12182(a).
37. The conduct of TCR Respondents constitutes a pattern and practice of denying people with disabilities the full enjoyment of rights granted by the ADA, 42 U.S.C. §§ 12181-12189.
38. Persons who may have been the victims of TCR Respondents’ discriminatory conduct are aggrieved persons and may have suffered injury as a result of the conduct

described above and entitled to appropriate relief including, but not limited to, temporary and permanent injunctive relief provided in the ADA, 42 U.S.C. § 12188(a)(2).

39. TCR Respondents' conduct described above was intentional, willful, and in reckless disregard for the rights of others.

**THIRD CAUSE OF ACTION**  
**PURSUANT TO NEW YORK STATE EXECUTIVE LAW § 63(12)**  
**VIOLATIONS OF HUMAN RIGHTS LAW §§ 296(2), (5), and (18)**

40. Petitioner repeats and re-alleges each and every allegation contained in paragraph 1 through 39.

41. The Human Rights Law makes it unlawful to: (a) discriminate in the rental of, or otherwise make unavailable, or deny housing accommodations to persons because of their disabilities, New York State Executive Law § 296(5)(a)(1); (b) discriminate against persons because of their disabilities in the terms conditions, or privileges of rental of a dwelling, or in the provision of services of facilities in connection with the rental of a dwelling, New York State Executive Law § 296(5)(a)(2); (c) fail to design and construct housing accommodations in compliance with the applicable accessibility regulations, New York State Executive Law § 296(18)(3) and Building Code Chapter 11; and (d) discriminate against persons because of their disabilities in the full and equal enjoyment of services, facilities, privileges, and accommodations of a place of public accommodation, New York State Executive Law § 296(2)(a).

42. TCR Respondents failed to design and construct the Complex and its dwellings in compliance with the accessibility and adaptability features mandated by the Human Rights Law, New York State Executive Law §296(18)(3) and the applicable accessibility regulations. The Complex, including its amenities and covered dwelling units, were

designed in such a manner that renders them not readily accessible to and usable by people with disabilities.

43. TCR Respondents through their actions have discriminated in the rental of, or otherwise made unavailable, housing accommodations to renters because of their disability and discriminated against persons with disabilities by denying them the same terms, conditions, privileges, and provision of services in renting the dwellings in violation of the Human Rights Law, New York State Executive Law §§ 296(5)(a)(1), (2).

44. The leasing office, facilities, and accommodations appurtenant to that office including parking, sidewalks, and restrooms constitute “public accommodations” within the meaning of the Human Rights Law, New York State Executive Law § 292(10). As alleged above, the public accommodation areas were designed in such a manner that the facilities are not readily accessible to and usable by people with disabilities.

45. TCR Respondents through their actions have discriminated against persons with disabilities in the enjoyment of services, facilities, privileges, and accommodations of a place of public accommodation in violation of the Human Rights Law, New York State Executive Law § 296(2)(a).

46. The conduct of TCR Respondents constitutes a pattern and practice of denying people with disabilities the full enjoyment of rights granted by the Human Rights Law, New York State Executive Law §§ 290-301 and/or a pattern and practice of resistance to the full enjoyment of rights granted by the Human Rights Law, New York State Executive Law §§ 290-301.

47. TCR Respondents’ conduct described above was intentional, willful, and in reckless disregard for the rights of others.

**FOURTH CAUSE OF ACTION**  
**NEW YORK STATE EXECUTIVE LAW § 63(12)**

48. Petitioner repeats and re-alleges each and every allegation contained in paragraph 1 through 48.

49. A violation of New York State or federal law constitutes illegality within the meaning of New York State Executive Law § 63(12) and is actionable thereunder when persistent or repeated.

50. TCR Respondents have violated New York State Executive Law § 63(12) by their repeated and persistent violations of the Fair Housing Act, 42 U.S.C. §§ 3604(f)(1), (2), and (3); the ADA, 42 U.S.C. § 12182(a) and § 12183(a)(1); and the Human Rights Law, New York State Executive Law §§ 296(2), (5), and (18).

51. TCR Respondents have further violated New York State Executive Law § 63(12) by their repeated and persistent violations of the New York State Civil Rights Law § 40-c, which prohibits the denial of civil rights on the basis of a person's disability status. By discriminating against people with disabilities in the terms, conditions, or privileges of rental of a housing accommodation, or in the provision of services or facilities in connection with the rental of a housing accommodation, TCR Respondents have engaged in repeated and persistent violations of the New York State Civil Rights Law § 40-c. As such, the Design and Construction Respondents have violated New York State Executive Law § 63(12) and are liable thereunder.

2. Enjoining Pantzer Respondents from engaging in conduct that denies access to the covered multifamily dwelling units, public accommodation, and common use areas at the Complex or the taking of any other action which hinders any retrofits required to bring the covered multifamily dwelling units, public accommodation, and common use areas into compliance with the accessibility provisions of the Fair Housing Act, the ADA, and the Human Rights Law to be done in a prompt and efficient manner.
3. Accessing civil penalties against TCR Respondents pursuant to New York State Civil Rights Law § 40-d.
4. Awarding Petitioner reasonable attorneys' fees and costs pursuant to 42 U.S.C. § 3613(c)(2).
5. Awarding monetary damages to all persons harmed by TCR Respondents' discriminatory conduct pursuant to 42 U.S.C. § 3613(c)(1).
6. Awarding such compensatory and punitive damages as against TCR Respondents as are proper under the law.
7. Awarding such other and further relief that this Court may deem appropriate and equitable, including injunctive and declaratory relief as may be required in the interests of justice.

Dated: New York, New York  
March 25, 2010

ANDREW M. CUOMO  
Attorney General of the State of New York

By: \_\_\_\_\_

A handwritten signature in black ink, appearing to be 'A. B. David', written over a horizontal line.

Alphonso B. David  
Bureau Chief

Spencer Freedman  
Counsel for Civil Rights

Brooke Davis  
Assistant Attorney General

Office of the New York State Attorney General  
Civil Rights Bureau  
120 Broadway  
New York, New York 10271  
Tel. (212) 416-8250  
Fax (212) 416-8074

**VERIFICATION**

STATE OF NEW YORK    )

COUNTY OF NEW YORK   )    ss.:

ALPHONSO B. DAVID, being duly sworn, deposes and says:

I am the Bureau Chief in the office of Andrew M. Cuomo, Attorney General of the State of New York, and am duly authorized to make this verification.

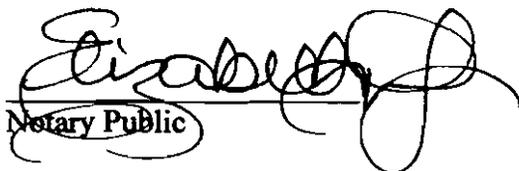
I have read the foregoing complaint and know the contents thereof, which are to my knowledge true, except as to those matters stated to be alleged on information and belief, and to these matters I believe them to be true. The grounds of my belief as to all matters stated upon information and belief are investigative materials contained in the files of the Attorney General's office.

The reason this verification is not made by plaintiff is that plaintiff is a body politic and the Attorney General is its duly authorized representative.



\_\_\_\_\_  
ALPHONSO B. DAVID

Sworn to before me this  
25<sup>th</sup> day of March, 2010



Notary Public

**ELIZABETH DE LEÓN**  
Notary Public - State of New York  
No. 02DE6146784  
Qualified in New York County  
Commission Expires May 22, 2010