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14 UNITED STATES DISTRICT COURT
15 CENTRAL DISTRICT OF CALIFORNIA

16 J. Angelic Hunter, Robert Hill,
17 Richard Packard, Donald Eblaan, and
18 Lawrence Gilliam, individually and on
19 behalf of all others similarly situated,

20 Plaintiffs,

21 v.

22 Ronald Chatman,
23 Matthew Love,
24 St. Timothy's Tower & Manor, Inc.,
25 St. Timothy's Preservation LP,
26 St. Timothy's Tower & Manor GP LLC,
27 Levine Management Group, Inc., and
Does 1-10, inclusive,

28 Defendants.

Case No.: 18-cv-5760

Class Action Complaint for Violations
of:

1. Fair Housing Amendments Act, 42 U.S.C. § 3601 *et seq.*
2. Section 504 of the Rehabilitation Act, 29 U.S.C. § 794 *et seq.*
3. Fair Employment & Housing Act, Cal. Gov't Code § 12900 *et seq.*
4. California Government Code § 11135
5. Unruh Civil Rights Act, Cal. Civil Code § 51 *et seq.*

Demand for Jury Trial

JURISDICTION AND VENUE

1
2 1. This Court has original jurisdiction over Plaintiffs' first two claims
3 alleging violations of federal civil rights laws. 28 U.S.C. §§ 1331 and 1343.

4 2. This Court has supplemental jurisdiction over Plaintiffs' State law
5 claims because they are related to the federal claims. 28 U.S.C. § 1367.

6 3. This Court has personal jurisdiction and venue is appropriate in this
7 judicial District both because all defendants are located in Los Angeles County,
8 California, and because the acts and omissions underlying the claims in this action
9 occurred in Los Angeles County. 28 U.S.C. § 1391(b).

INTRODUCTION

10
11
12 4. Defendants, who receive millions in Federal and state funding and tax
13 exemptions to operate housing for low-income seniors and tenants with
14 disabilities, have violated their tenants' equal housing rights by failing to maintain
15 the elevators that serve their apartments. Federal and State laws guarantee equal
16 use and enjoyment of government-funded housing for tenants with disabilities,
17 including safe, functional elevators that serve that housing. Plaintiffs are low-
18 income seniors with mobility disabilities who live on upper levels of an eight-floor
19 building served by two elevators. Because of their disabilities, Plaintiffs rely on the
20 elevators to access their homes and community, and to receive emergency medical
21 services.

22 5. Yet the Defendants have refused to maintain the elevators for the last
23 two decades. As a result, in the last six months one or both of the elevators have
24 been out of service more than 50% of the time. From 2016 through early 2018,
25 Defendants admit there were 48 elevator outages.

26 6. During elevator outages, Plaintiffs and other tenants with disabilities
27 are functionally confined to—or sometimes barred from—their upper-floor
28 apartments. They are unable to access common amenities and to visit friends on

1 other floors. Several have been trapped in the elevators themselves. Some have
2 missed critical medical appointments. Others have had to call paramedics when
3 they became unable to continue going up stairs, trying to navigate around the
4 elevator malfunctions.

5 7. Defendants are aware of the repeated danger to which they subject
6 their disabled tenants. Plaintiffs, other St. Timothy's tenants, and several
7 government agencies have repeatedly notified Defendants about the elevator
8 malfunctions and their hazardous impact upon tenants with disabilities. Yet
9 Defendants refused for years to take the necessary steps to provide a functional
10 elevator system.

11 8. Plaintiffs bring this civil rights action on behalf of themselves and
12 similarly situated persons to challenge Defendants' chronic, intentional failure to
13 provide a functioning elevator system in violation of the federal Fair Housing
14 Amendments Act, Section 504 of the Rehabilitation Act, and California laws.

15 9. Plaintiffs ask this Court to ensure them access their homes and the
16 community, equal to their able-bodied neighbors.

17
18 **PARTIES**

19 10. Plaintiffs are tenants of St Timothy's Tower & Manor, a HUD
20 project-based Section 8 subsidized housing program in the city of Compton,
21 California. Compton is in Los Angeles County, California.

22 11. Defendants are the individuals and business entities that collectively
23 own and operate St Timothy's Tower & Manor.

24 12. Plaintiff J. Angelic Hunter is a 73-year-old woman with mobility
25 disabilities that substantially limit her ability to stand, walk, and use stairs. Her
26 home is on the eighth floor of St. Timothy's Tower. She is a qualified individual
27 with a disability within the meaning of applicable statutes and regulations
28 including 42 U.S.C. § 12131(2), 28 C.F.R. § 35.104, 29 U.S.C. § 705(20)(B), and

1 California Government Code § 12926.

2 13. Plaintiff Robert Hill is a 73-year-old man with cardiac disabilities that
3 substantially limit his ability to stand, walk, and use stairs. His home is on the
4 fifth floor of St. Timothy's Tower. He is a qualified individual with a disability
5 within the meaning of applicable statutes and regulations including 42 U.S.C.
6 § 12131(2), 28 C.F.R. § 35.104, 29 U.S.C. § 705(20)(B), and California Government
7 Code § 12926.

8 14. Plaintiff Richard Packard is an 87-year-old man with mobility,
9 muscular/skeletal, visual, and auditory disabilities that substantially limit his
10 ability to stand, walk, and use stairs. His home is on the fifth floor of St. Timothy's
11 Tower. He is a qualified individual with a disability within the meaning of
12 applicable statutes and regulations including 42 U.S.C. § 12131(2), 28 C.F.R.
13 § 35.104, 29 U.S.C. § 705(20)(B), and California Government Code § 12926.

14 15. Plaintiff Donald Eblaan is a 62-year-old man with mobility, skeletal,
15 and spinal disabilities that substantially limit his ability to stand, walk, and use
16 stairs. His home is on the eighth floor of St. Timothy's Tower. He is a qualified
17 individual with a disability within the meaning of applicable statutes and
18 regulations including 42 U.S.C. § 12131(2), 28 C.F.R. § 35.104, 29 U.S.C.
19 § 705(20)(B), and California Government Code § 12926.

20 16. Plaintiff Lawrence Gilliam is a 67-year-old man with mobility and
21 respiratory disabilities that substantially limit his ability to stand, walk, and use
22 stairs. His home is on the fifth floor of St. Timothy's Tower. He is a qualified
23 individual with a disability within the meaning of applicable statutes and
24 regulations including 42 U.S.C. § 12131(2), 28 C.F.R. § 35.104, 29 U.S.C. §
25 705(20)(B), and California Government Code § 12926.

26 17. Plaintiffs are informed and believe that Defendant Ronald Chatman is
27 either the executive director or the chief financial officer of Defendant
28

1 St. Timothy's Tower & Manor, Inc.¹ Therefore, Mr. Chatman is responsible for
2 ensuring that St. Timothy's Tower & Manor complies with federal and State
3 nondiscrimination laws.

4 18. Defendant Matthew Love is the chief executive officer of Defendant
5 St. Timothy's Tower & Manor, Inc. according to the California Secretary of State's
6 filings for the corporation. Therefore, Mr. Love is responsible for ensuring that St.
7 Timothy's Tower & Manor complies with federal and State nondiscrimination
8 laws.

9 19. Structurally St. Timothy's is comprised of three business entities: the
10 nonprofit corporation is the sole member of the St. Timothy's limited liability
11 corporation; in turn, the limited liability corporation is the sole partner of the
12 St. Timothy's limited partnership.

13 20. Defendant St. Timothy's Tower & Manor, Inc. is a nonprofit
14 corporation and multifamily housing provider organized and existing under the
15 laws of the State of California. St. Timothy's Tower & Manor, Inc., is located in
16 Los Angeles County. Defendant St. Timothy's Tower and Manor, Inc. owns and
17 operates the Program. It is a recipient of federal funds for its rental housing
18 program through HUD's project based Section 8 housing program, and state
19 financial assistance through tax-exempt multifamily affordable housing bonds
20 through the California Statewide Communities Development Authority
21 ("CSCDA"). This funding is sufficient to render Defendant St. Timothy's Tower &
22 Manor, Inc. subject to Section 504 and California Government Code Section
23 § 11135. Defendant St. Timothy's Tower & Manor, Inc. also receives Federal low-
24 income tax credits through the California Tax Credit Allocation Committee
25 ("TCAC"). It is a multifamily housing provider subject to the Fair Housing

26
27 ¹ The Web site for Defendant St. Timothy's Tower & Manor, Inc., lists Mr.
28 Chatman as executive director, but the California Secretary of State's public files
for the corporation list him as the chief financial officer.

1 Amendments Act.

2 21. Defendant St. Timothy's Preservation LP is a limited partnership and
3 multifamily housing provider organized and existing under the laws of the State of
4 California. St. Timothy's Preservation LP is located in Los Angeles County,
5 California. Defendant St. Timothy's Preservation LP owns and operates St.
6 Timothy's Tower & Manor, where Plaintiffs are tenants. It is a recipient of federal
7 funds for its rental housing program through HUD's Section 8 housing program,
8 and state financial assistance through tax-exempt multifamily affordable housing
9 bonds through CSCDA. This funding is sufficient to render Defendant St.
10 Timothy's Tower & Manor, Inc. subject to Section 504 and California Government
11 Code Section § 11135. Defendant St. Timothy's Preservation LP also receives
12 Federal low-income tax credits through TCAC. It is also a multifamily housing
13 provider subject to the Fair Housing Amendments Act. Defendant St. Timothy's
14 Tower and Manor GP LLC is a general partner of Defendant St. Timothy's
15 Preservation LP.

16 22. Defendant St. Timothy's Tower and Manor GP LLC is a limited
17 liability corporation and multifamily housing provider organized and existing
18 under the laws of the State of California. St. Timothy's Tower and Manor GP LLC
19 is located in Los Angeles County. Defendant St. Timothy's Tower and Manor GP
20 LLC owns and operates St. Timothy's Tower & Manor, where Plaintiffs are
21 tenants. It is a recipient of federal funds for its rental housing program through
22 HUD's Section 8 housing program, and state financial assistance through tax-
23 exempt multifamily affordable housing bonds through CSCDA. This funding is
24 sufficient to render Defendant St. Timothy's Tower & Manor, Inc. subject to
25 Section 504 and California Government Code Section § 11135. Defendant St.
26 Timothy's Tower and Manor GP LLC also receives Federal low-income tax credits
27 through TCAC. It is also a multifamily housing provider subject to the Fair
28 Housing Amendments Act. Defendant St. Timothy's Tower and Manor, Inc. is the

1 sole manager or member of St. Timothy's Tower and Manor GP LLC.

2 23. Defendant Levine Management Group, Inc. ("Levine") is a for-profit
3 corporation organized and existing under the laws of the State of California.
4 Levine Management Group, Inc. specializes in the development, construction and
5 professional property management of low-income affordable senior citizen and
6 multi-family apartments. It is the contracted property manager for St. Timothy's
7 Tower & Manor. Therefore, it is responsible for ensuring that St. Timothy's Tower
8 & Manor complies with federal and state nondiscrimination laws.

9 24. Defendants, and each of them, are sued in their own right and based
10 on the acts of their officials, agents, partners, shareholders, board members, and
11 employees, and each of them.

12 25. At all relevant times, each of the Defendants acted as a principal,
13 agent, representative, or employee of each of the other Defendants and acted
14 within the course and scope of said agency, representation, or employment, and
15 with the permission and ratification of each of the other Defendants.

16 26. Plaintiffs are ignorant of the true names or capacities of those
17 defendants named Does 1 through 10. They therefore sue said defendants by
18 fictitious names. Plaintiffs are informed and believes that these other defendants
19 may also be responsible for the acts and omissions claimed herein. Plaintiffs will
20 seek leave of the Court to amend this Complaint to allege the true names and
21 capacities of these defendants when they have been ascertained.

22 23 FACTUAL ALLEGATIONS

24 27. St. Timothy's Tower & Manor is a multifamily, senior and disabled
25 housing program in the city of Compton, California in Los Angeles County.
26 Because three of the defendants' names include "St. Timothy's," Plaintiffs refer to
27 the St. Timothy's Tower & Manor housing program as the "Program."

28 28. The Program consists of two buildings: the Tower and the Manor.

1 **Plaintiffs and other Tower tenants with disabilities need a functioning**
2 **elevator system for equal use and enjoyment of their homes.**

3 29. The Tower is an eight-story building. It has 112 tenant apartments
4 housing over a hundred tenants. Of those, 105 tenant apartments are on floors two
5 through eight. All the tenants are extremely low income or very low income, as
6 defined by HUD. All are seniors, have disabilities, or both.

7 30. Two elevators serve the Tower—a main elevator and a small elevator.
8 The main elevator car is approximately 5 feet by 7 feet. The small elevator car is
9 approximately 4 feet by 5 feet. 95% of the Tower’s upper floor units are elevator-
10 serviced.

11 31. Plaintiffs and numerous other tenants with disabilities need to use
12 these elevators to access their homes and the community because they have one or
13 more disabilities that substantially limit their ability to use the stairs. These
14 disabilities include orthopedic, physical, muscular, skeletal, visual, auditory, heart
15 or circulatory, and/or respiratory disabilities that impair their mobility.

16 32. However, these elevators have been dysfunctional for more than two
17 decades. The elevators frequently break down, sometimes trapping residents
18 inside. They often remain out of service for weeks at a time.

19 33. On or about January 31, 2018, Defendant Levine Management Group
20 reported to the U.S. Department of Housing and Urban Development (“HUD”)
21 that the elevators were not in operation on 48 different instances in the preceding
22 24 months.

23 34. That dysfunction continues today. Plaintiffs are informed and believe
24 that between September 2017 and June 2018, one or both elevators were out of
25 service for at least 185 days:

26 35. Between September 2 and 20, 2017, the main elevator went out of
27 service four times. The main elevator was out of service for 14 of those 18 days.

28 36. On September 25, 2017, both elevators went out. The main elevator

1 remained out of service until October 18.

2 37. A week later, on October 25, 2017, both elevators went out of service.
3 They remained out of service until late in the morning of October 27, 2017. They
4 were functional for a few hours, then went back out of service again that
5 afternoon. The small elevator was put back in service, but the main elevator
6 remained out of service until November 5.

7 38. The main elevator was out of service again from December 20 through
8 26, 2017.

9 39. After just a week of operation, the main elevator was out of service
10 again, from January 3 through February 3, 2018. During this period, the small
11 elevator went out of service at least three times.

12 40. Both elevators went out of service again on March 7, 2018. Tenants
13 were allowed to use the main elevator again that day, but the door would only
14 close halfway and remained inconsistent about closing for several weeks. The
15 small elevator remained out of service.

16 41. On April 5, 2018, the main elevator went out of service again for
17 several hours. When it went back into service, it continued to malfunction for
18 more than a week. The small elevator remained out of service.

19 42. On April 13, 2018, the main elevator went out of service several times
20 for hours. The small elevator remained out of service.

21 43. On April 20, 2018, the main elevator went out of service several times
22 over several hours. When it went back into service, it continued to malfunction.
23 The small elevator remained out of service.

24 44. On May 18, 2018, the main elevator went out of service several times
25 over several hours. The small elevator remained out of service.

26 45. Late in the day on June 14, 2018, the small elevator finally returned to
27 service after a **ninety-nine-and-a-half day outage**.

28 46. On June 19, 2018, the main elevator went out of service for several

1 hours. Some tenants observed smoke coming out of the elevator shaft.

2
3 **The repeated elevator outages deprive Plaintiffs of equal use and**
4 **enjoyment of their homes.**

5 47. Plaintiffs and numerous other tenants with disabilities live on the
6 upper floors of the Tower.

7 48. During elevator outages, Plaintiffs and other tenants with mobility
8 disabilities face significant risks. Some of them attempt navigating up and down
9 several flights of stairs that are unsafe for them to use because of their disabilities.
10 Others are unable to enter or leave their homes during outages because they
11 cannot use the stairs at all.

12 49. Because of elevator outages, Plaintiffs and other tenants with mobility
13 disabilities have missed critical medical appointments and have had to cancel
14 personal plans. Many others have been caught outside their apartments during
15 outages. These tenants were unable to return to their apartments for extended
16 periods of time—denying them access to their possessions and the basic comfort
17 of their homes:

18 50. During outages, Plaintiffs and other tenants with mobility disabilities
19 on upper floors of the Tower are unable to access services which Defendants
20 provide on the first floor. These include the manager's office, where tenants must
21 tender their rent, submit work orders, submit recertification paperwork, and
22 submit reasonable accommodation requests, among other landlord-tenant
23 business; tenant mailboxes; the community room, which houses the vending
24 machines and game nights; Activities Committee bake sales; prayer services; free
25 meals; monthly Food Bank donations; bi-weekly grocery donations; outdoor
26 smoking section; and outdoor patios.

27 51. Outages and service interruptions prevent Plaintiffs and other tenants
28 with mobility disabilities on floors one through seven are unable to access the

1 laundry facilities that Defendants provide only on the eighth floor.

2 52. Outages and service interruptions also cut off Plaintiffs and other
3 class members from each other: They lose opportunities to socialize and build
4 community in the Towers, which functions as their immediate neighborhood.

5 53. Outages and service interruptions also cut off Plaintiffs and other
6 tenants with mobility disabilities from the greater community. This is not simply a
7 problem of sociability. It also endangers their tenancies, because many Plaintiffs
8 and class members tender rent by money order they must procure in the
9 community.

10 54. Outages and service interruptions cause problems even when one
11 elevator is in operation. Because the elevators serve 105 units on floors two
12 through eight, when only one elevator is in operation, all tenants experience
13 prolonged wait times to use it, up to twenty minutes. Several plaintiffs and other
14 tenants with mobility disabilities have difficulty standing, as described below. For
15 them, extended waits for the elevator are much more than an inconvenience: they
16 are a painful ordeal every time they want to enter or leave their home.

17 55. The extended waits also prevent several Plaintiffs and other tenants
18 with mobility disabilities in upper floors from receiving timely in-home nursing
19 care, in-home supportive services, and emergency care. Nurses, aides, and
20 emergency personnel must either wait to take the single elevator or climb several
21 flights of stairs to get to patients on upper floors. This reduces the time that
22 service providers are actually present in-home to care for these tenants.

23 56. Because the small elevator is only four feet deep by five feet wide, an
24 ordinary wheelchair takes up most of the floor space and cannot be turned around
25 if there is anyone else in the elevator car. Further, Defendants' staff have
26 admonished tenants who use wheelchairs and scooters for using the small
27 elevator. Thus, when the main elevator is out of service, tenants with large
28 assistive devices like a power wheelchair or scooter hesitate to use the small

1 elevator, often rendering them trapped in their homes.

2 57. The two Tower stairwells do not have the same level of access in and
3 out of the building. Only the West stairwell can be entered and exited from the
4 ground floor. The East stairwell only exits to the outside.

5 58. The East stairwell door on the side of the building is locked from the
6 outside. There is no door to the East Stairwell from inside the ground floor. To use
7 the East stairwell from inside the Tower, a person would have to enter from the
8 second floor or above. This means that if the East stairwell door were jammed at
9 the exit for any reason when the elevators were out of service, a person exiting
10 through the stairwells would have to go to the second floor, go across the hallway
11 to the West stairwell, and go down to the ground floor and exit the building. For
12 tenants with mobility disabilities, the distance is prohibitively long.

13 59. Despite a decades-long history of elevator outages, Defendants have
14 no policies or plans for addressing these outages. They do not adequately maintain
15 the elevators to prevent outages, nor do they repair them timely.

16 60. Defendants do not provide tenants consistent and/or adequate notice
17 of the outages, including any timeframe for repair.

18 61. Defendants do not provide relocation assistance for tenants during
19 extended elevator outages.

20 62. Defendants do not provide tenants reimbursement for costs incurred
21 because of elevator outages.

22 63. Defendants do not have adequate plans to provide reasonable
23 accommodations for tenants with disabilities if the elevators are out of service.

24 64. Defendants do not have adequate plans or equipment to evacuate or
25 accommodate tenants with disabilities during medical emergencies when the
26 elevators are out of service.

27 65. Defendants do not have adequate plans in place to evacuate or
28 accommodate tenants with disabilities in the event of natural disaster. Defendants

1 know that they serve many tenants with mobility disabilities. Yet Defendants have
2 advised tenants to walk down the stairwells to evacuate.

3 **Plaintiff J. Angelic Hunter**

4 66. Plaintiff J. Angelic Hunter resides on the eighth floor of the Tower.
5 She has lived there for the last six years. She intends to continue living at the
6 Tower. She enjoys the location of her eighth floor unit and its city view.

7 67. When the elevators are functioning, Ms. Hunter leaves her home to
8 go to medical appointments. She also likes to go to the grocery store, to
9 restaurants, to museums, to the library, to bible study, to the local senior citizens
10 center for arts and crafts, to the mall with her grandchildren, to visit friends on
11 other Tower floors, and to visit first floor common room to play cards or bingo
12 with other tenants. Ms. Hunter has also enjoyed going to Long Beach on the Metro
13 Blue Line train.

14 68. Ms. Hunter has mobility disabilities that substantially limit her
15 ability to stand, walk, and use stairs. Her mobility disabilities are due to a fused
16 spine, several related spinal surgeries, and a seizure condition. Her disabilities
17 cause her significant pain, difficulty, and balance problems that put her at risk of
18 falling when she stands or attempts to walk. Ms. Hunter has had several falls in
19 the past few months while attempting to stand or walk, even with her walker. She
20 has also been hospitalized several times in the past few months.

21 69. Ms. Hunter cannot walk without assistance. Her recent health
22 complications have further compromised her ability to walk, and she experiences
23 more pain.

24 70. Ms. Hunter uses a power scooter for most of her ambulation.

25 71. Ms. Hunter sometimes uses a walker to support her while walking.
26 With her walker, walking is slow and difficult for her, she has limited stability,
27 and can only walk a limited distance.

28 72. Ms. Hunter cannot stand without assistance for more than a few

1 moments—for example the time it takes her to move from her scooter to a chair.
2 She uses a walker to support her while standing. She often also sits in her scooter
3 if she has to wait in place.

4 73. Ms. Hunter cannot use stairs. She attempted use the stairs once from
5 the ground floor up to her eighth floor home in the past few years when both
6 elevators were out of service. She slipped and fell near the fifth floor, injuring
7 herself. She was hurt and embarrassed. Ms. Hunter was very sore the next day and
8 could hardly stand. It became impossible for her to use stairs after this incident.

9 74. Because she cannot use the stairs, Ms. Hunter is terrified about how
10 she will get of the building if a medical emergency or natural disaster occurs when
11 the elevators are out of service. Defendants have never informed her of any
12 emergency or natural disaster planning for the Program.

13 75. With the prolonged elevator outages with no real response from
14 management or help from management, tenants such as Ms. Hunter have been
15 forced to fend for themselves considering creative but sometimes unsafe
16 alternatives to get up and down stairs. For example, one tenant suggested to
17 Ms. Hunter that she slide down the stairs in an empty box from the eighth floor.
18 But she could not physically do that even if it was safe. She is considering purchase
19 of mountain climbing ropes so she can hoist herself down the side of the Tower
20 through her window.

21 76. Ms. Hunter has missed critical medical appointments and ACCESS
22 paratransit rides because elevator outages have stranded her in her home. For
23 example, on October 25, 2017, she missed an appointment with her cardiologist
24 because the elevators did not work. Ms. Hunter also missed the ACCESS ride that
25 was supposed to take her to the cardiologist appointment, risking a negative mark
26 on her ACCESS ride record and eventual cancellation if she misses too many rides.

27 77. Ms. Hunter needs a functional elevator system because her
28 disabilities make it impossible for her to access her home on the eighth floor by the

1 stairs. She especially needs to use the main elevator to accommodate her power
2 scooter, which she needs to access the community and increasingly, the Program
3 itself. When the main elevator is out, the small elevator is “packed like sardines”
4 by the time it reaches the eighth floor and there is no room for the power scooter
5 she needs to ambulate. She often waits several trips for the small elevator to empty
6 so she has room to get inside with her power scooter. The small elevator also
7 strains to operate and makes alarming noise while transporting her in her power
8 scooter.

9 78. On or about December 31, 2017, Ms. Hunter experienced a medical
10 emergency requiring an ambulance and hospitalization, when the freight elevator
11 was out of service. The responding Compton Fire Department personnel struggled
12 to transport her gurney in the small elevator for lack of space, and expressed
13 frustration that the main elevator was out of service.

14 79. Ms. Hunter needs a functioning elevator system to receive disability-
15 related care and assistance from her son and her in-home supportive services
16 (“IHSS”) worker. Her son also has mobility disabilities that make it difficult for
17 him to use stairs. Even if one elevator is in service, the long wait times cause him
18 significant pain while standing. Ms. Hunter also suffers delays in getting full and
19 timely care from her IHSS worker because of elevator outages. It takes a long time
20 for her worker to climb the eight flights of stairs or wait to take the one
21 operational elevator.

22 **Plaintiff Robert Hill**

23 80. Robert Hill resides on the fifth floor of the Tower. He has lived there
24 for the last five years and intends to continue living there.

25 81. When the elevators are functioning, Mr. Hill regularly leaves his
26 apartment to go to medical appointments, to the grocery store, to the mall, to
27 restaurants, to get money orders for paying his rent at the manager’s office on the
28 first floor, to get mail right outside the first floor, to do his laundry on the eighth

1 floor, to spend time with his girlfriend and friends, and to travel.

2 82. Mr. Hill has cardiac disabilities that substantially limit his ability to
3 stand, walk, and use stairs. Mr. Hill has undergone multiple heart surgeries. He
4 has a pacemaker.

5 83. Mr. Hill cannot walk without support outside of his home. He uses a
6 cane or walker whenever he leaves his home.

7 84. Mr. Hill can walk short distances with his cane. When he goes
8 beyond the Program's gates, he uses a walker for better stability.

9 85. Mr. Hill can stand, but standing still for more than a few moments
10 causes him severe pain and dizziness.

11 86. Mr. Hill can nominally use stairs with great difficulty. To use the
12 stairs, Mr. Hill can only bring his cane—his walker is too heavy for him to bring on
13 the stairs. Even with the cane, Mr. Hill can only use stairs very slowly and worries
14 about falling. He needs a break at every landing because of pain, weakness in his
15 legs, fatigue, and shortness of breath. However, there is nowhere to rest in the
16 stairwells. He has to stand and lean against a wall, or hold himself against the
17 railing until he feels he can proceed. If he sits on the stairs, it can be hard for him to
18 get back up again. When he looks down the stairs, sometimes he experiences
19 dizziness.

20 87. If both the elevators are out of service, Mr. Hill does not attempt to go
21 down the stairs because he is unsure whether he will be able to make it back up
22 the stairs to the fifth floor. He stays inside his unit until at least one elevator is
23 working.

24 88. Mr. Hill is worried about whether he will be able to evacuate down
25 the Tower stairs fast enough in the event of a medical emergency or natural
26 disaster if the elevators are out of service. Defendants have never informed him of
27 any emergency or natural disaster planning for the Program. He does not know a
28 safe way for him to get out of the building on his own.

1 89. On October 25, 2017, Mr. Hill was trapped in the main elevator with
2 another tenant with disabilities when it malfunctioned. Mr. Hill was terrified and
3 panicked. Because of his cardiac disabilities, Mr. Hill experienced heart
4 palpitations and breathing problems, became dizzy, and nearly lost consciousness.
5 Mr. Hill fears being trapped in the elevators again.

6 90. When one elevator is down, it is very difficult for Mr. Hill to leave his
7 home. It can take up to twenty minutes just to get the elevator and he experiences
8 a difficult time standing during that time. The ride itself has taken up to four
9 minutes to go from the fifth floor to the ground floor.

10 **Plaintiff Richard Packard**

11 91. Richard Packard resides on the fifth floor of the Tower. He has lived
12 there for the last six years and intends to continue living there.

13 92. When the elevators are functioning, Mr. Packard regularly leaves his
14 apartment to go to medical appointments, to get meals in the community, and to
15 sit on the bench outside St. Timothy's gates. He also likes to visit his friends and
16 neighbors on other floors of the Tower many times a day.

17 93. Mr. Packard has muscular/skeletal, visual, and auditory disabilities
18 that substantially impair his ability to stand, walk, and use stairs. He has severe
19 knee arthritis that causes significant pain in his knees and legs. He has a permanent
20 rod in his left arm. His left arm is about three inches shorter than his right arm and
21 very weak. He is legally blind: he has complete blindness in one eye and glaucoma
22 that limits his field of vision and compromises his depth perception by
23 approximately ninety percent in his remaining eye. His vision has progressively
24 worsened over the years. He has hearing problems that limit his awareness of his
25 environment. He has cardiac conditions, and had a stent surgically inserted into
26 his heart.

27 94. Mr. Packard also takes a blood thinner medication to help him avoid
28 strokes. Because of this medication, ordinary bumps and bruises can become life

1 threatening because he is likely to get internal bleeding from them.

2 95. Mr. Packard cannot stand, walk, or use stairs without support. He is
3 always at risk of falling.

4 96. Mr. Packard uses a cane for support while standing, walking, or using
5 stairs. He has to use the cane in his right arm for the best balance. Because of the
6 rod in his left arm and its shortness, he cannot properly use the cane with his left
7 hand.

8 97. Mr. Packard cannot stand for more than about fifteen minutes at a
9 time even with his cane. After that, his legs may give out from the severe arthritis
10 in both his knees.

11 98. Mr. Packard can slowly walk on flat ground almost one city block
12 with the support of his cane. Further than that, he risks his legs giving out.

13 99. Mr. Packard's physician has directed him never to take the stairs. His
14 disabilities make it likely that he will suffer serious injury.

15 100. Because of his vision impairments, Mr. Packard cannot consistently
16 see the steps. Because of his leg and back issues, going up and down the steps is
17 painful. Because of his arm issues, he cannot properly support himself on the rail to
18 compensate for his leg and back issues. There is only a single railing in each of the
19 two Tower stairwells. Going up the stairs, he has to use his weak and short left
20 arm to balance his cane on the stairs and use his right arm to hold the rail. Going
21 down the stairs, he has to use his weak and short left arm to hold the rail and use
22 his right arm to balance his cane on the stairs.

23 101. Despite doctor's orders, Mr. Packard has risked taking the stairs from
24 the ground floor to his fifth floor home about four to six times when both elevators
25 went out of service while he was out of the building. To use the stairs, he had to
26 hold onto the rail, pull himself up a step or two at a time, let go of the rail, and
27 hope that he would catch the rail again as he fell forward to the next step. Each of
28 the times he took the stairs, he repeated this process every two steps for five

1 stories. He almost fell several times and risked serious physical harm. He did not
2 fall because, in his view, he has “always been lucky.”

3 102. Mr. Packard fears being stranded in the Tower or the community
4 because of elevator outages. He also worries about whether he will be able to
5 evacuate the Tower down the stairs in a medical emergency or natural disaster if
6 the elevators are out of service. Defendants have never informed him of any
7 emergency or natural disaster planning for the Program.

8 103. Mr. Packard has missed critical medical appointments and canceled
9 plans because elevator outages have stranded him in his unit. He was forced to
10 cancel a medical appointment with his primary care physician during elevator
11 outages on March 7, 2018.

12 104. Mr. Packard usually eats his meals in the community because his
13 disabilities prevent him from cooking for himself. When the elevators go out, he
14 often goes twenty-four hours without eating in the hopes that the elevators will
15 resume service.

16 105. Mr. Packard suffers significant delays in receiving timely IHSS
17 services when the elevators are out of service. He receives IHSS because he cannot
18 do many tasks of daily living because of his disabilities, such as his laundry, getting
19 his mail, and cleaning his home. When one or both elevators are out, it takes his
20 IHSS worker a long time to take the stairs or use the single elevator to get to him
21 on the eighth floor to help him.

22 106. Mr. Packard wants to get a walker and a power scooter to assist him
23 with his significant mobility needs. However, he is worried that he will not be able
24 to use them in the Tower because the frequent elevator outages would make it
25 difficult to bring either of those devices from the ground floor to his home and
26 back.

27 107. Defendants do not communicate elevator outage notices in a format
28 accessible to Mr. Packard’s visual impairments, if they post any at all. Any outage

1 notice needs to be in large print for Mr. Packard to be able to read it. He has
2 requested that Defendants provide him large print documents as a reasonable
3 accommodation several times in the past few months, but they have refused.
4 Defendants have never called him, or otherwise tried to let him know about
5 elevator outages. Mr. Packard only finds out that one or more of the elevators are
6 out of service because other tenants tell him.

7 **Plaintiff Donald Eblaan**

8 108. Donald Eblaan resides on the eighth floor of the Tower. He has lived
9 there for the last six years and intends to continue living there.

10 109. When the elevators are functioning, Mr. Eblaan regularly leaves his
11 apartment to go to medical appointments, to the grocery store, to visit other
12 tenants' units, to the bank to get money orders to pay his rent or for other banking
13 purposes, to manager's office on the first floor to pay his rent, and to the vending
14 machines and mailboxes on the first floor. Mr. Eblaan also often helps other
15 tenants with their medical needs, with getting groceries, with transportation to
16 medical appointments, and with picking up prescriptions. He also enjoys driving
17 around the community and visiting friends in Long Beach.

18 110. Mr. Eblaan has mobility, skeletal, and spinal disabilities that
19 substantially limit his ability to stand, walk, and use stairs.

20 111. Mr. Eblaan has avascular necrosis, a degenerative skeletal disorder
21 that progressively deteriorates his bones. This condition has necessitated several
22 hip and shoulder replacements and deteriorated his knees. His left shoulder is
23 worse than his right. It never quite healed after doctors installed the artificial
24 shoulder. His artificial hips are now about nineteen years old and will be replaced
25 in the near future.

26 112. Mr. Eblaan also has spinal damage that has required surgery and
27 medical procedures. Doctors fused Mr. Eblaan's fifth lumbar and first sacral
28 vertebrae in 2009; this procedure is sometimes called an L5-S1 fusion. Since that

1 fusion, he has had limited feeling in his left foot, which cause balance challenges
2 for him.

3 113. Mr. Eblaen also has severe bronchial asthma, for which he has been in
4 treatment since he was four years old. He has three different inhalers to treat his
5 asthma. He takes two on a regular basis and one in emergencies. He see the
6 doctors for my asthma about every three weeks.

7 114. Mr. Eblaen's asthma can flare up when he physically exerts himself
8 too much. He starts panting and wheezing, and it becomes hard for him to
9 breathe. He has to stop and rest wherever he is, and use his emergency inhaler to
10 try to re-open his bronchial tubes. His asthma can get even worse when he is sick,
11 prompting immediate medical attention. While sick, a bronchial asthma attack
12 causes thick mucus to build in his chest and it becomes extremely hard for him to
13 breathe. If he does not get immediate medical treatment, he can get serious
14 pneumonia. When he is sick and experiencing asthma, he is too weak to walk, let
15 alone use the stairs.

16 115. Mr. Eblaen is only able to stand for a few moments at a time. After
17 that, pain starts as pressure across his lower back and hips and builds to
18 excruciating pain within minutes.

19 116. Mr. Eblaen is intermittently able to walk. When his hips, femurs,
20 knees, and back are stable, then he is able to walk on flat surfaces. When the pain
21 in one or more of those areas flares up, then he is limited in his walking and
22 occasionally unable to get out of bed.

23 117. Mr. Eblaen cannot functionally use the stairs going up. When he
24 attempts to walk up stairs, he feels a stabbing pain in both knees. Walking up the
25 stairs always triggers his knee issues. To take pressure off his knees as much as
26 possible, he holds onto the railing with his right hand and pull himself up each
27 step. He has walked up one or two flights from time to time like this, but "eight is
28 a killer."

1 118. Going up the stairs is even more difficult for Mr. Ebblaan if he is
2 carrying bags or packages. On flat ground, he carries bags or packages in both
3 hands to balance the pressure on his shoulders, spine, and hips. To go up the stairs
4 carrying bags or packages, he has to put all of the bags in his left hand so he can
5 pull himself up the railing using his right hand. This puts a lot of pressure on his
6 left shoulder and also throws off his balance.

7 119. Mr. Ebblaan will only walk down stairs if he has no other choice.
8 Repeated use of the stairs going down puts wear and tear on his artificial hips and
9 spine. He goes out of the building three to eight times a day. Having to go down
10 the stairs multiple times a day would aggravate his disabilities.

11 120. When one of the elevators is out, Mr. Ebblaan is forced to wait up to a
12 half hour for the elevator to arrive at his eighth-floor home. During these waits, he
13 does his best to pace because he cannot stand that long and there is nowhere to sit
14 by the elevator landing on the eighth floor.

15 121. Mr. Ebblaan was trapped in the main elevator twice in the same day,
16 October 25, 2017. Darren, a maintenance worker for the Program, eventually forced
17 the door open and helped Mr. Ebblaan out. Mr. Ebblaan fears being trapped in the
18 elevators again.

19 122. Mr. Ebblaan worries about whether he will be able to evacuate the
20 Tower down the stairs in a medical emergency or natural disaster if the elevators
21 are out of service. Defendants have never informed him of any emergency or
22 natural disaster planning for the Program other than taking the stairwells.
23 Sometime in 2011, after getting some information from the library, Mr. Ebblaan
24 talked to Defendants' on-site manager Dwayne Ennis about the need to have an
25 evacuation plan for the Program in case of natural disaster. During elevator
26 outages in March 2018, Mr. Ebblaan asked Mr. Ennis again about evacuation plans
27 for the building. As of the filing of this complaint, Mr. Ebblaan has never heard back
28 from Mr. Ennis about any plans.

1 **Plaintiff Lawrence Gilliam**

2 123. Lawrence Gilliam resides on the fifth floor of the Tower. He has lived
3 there for almost three years and intends to continue living there.

4 124. When the elevators are functioning, Mr. Gilliam regularly leaves his
5 apartment to go to medical appointments, to the grocery store, to get a money
6 order in the community, to pay his rent at the manager's office on the first floor, to
7 do his laundry on the eighth floor or at a local laundromat, to get his mail right
8 outside the ground floor, and to visit family in Los Angeles. Sometimes,
9 Mr. Gilliam likes to go to the park, to the library, to the donut shop, or to get
10 meals in the community. He also like to spend time in the Tower's community
11 room or outdoor patios on the first floor, listening to music or chatting with other
12 tenants.

13 125. Mr. Gilliam also helps many Tower seniors older than him to get
14 groceries, to run errands, or to help them get in and out of the building with their
15 things.

16 126. Mr. Gilliam has mobility and respiratory disabilities that
17 substantially limit his ability stand, walk, and use stairs. He has torn rotator cuffs
18 and significant lower back problems. He has chronic obstructive pulmonary
19 disease (COPD), asthma, bronchitis, and emphysema, which cause him breathing
20 problems. He cannot physically exert himself too much without aggravating his
21 health conditions.

22 127. Mr. Gilliam uses a cane, walker, and/or a back brace to support
23 himself while walking, standing, or using stairs. He carries an asthma inhaler with
24 him at all times to help with his breathing problems, which get worse with
25 exertion.

26 128. Mr. Gilliam can stand for a limited time with the assistance of his
27 cane or walker. He experiences pain when he has to stand for more than a few
28 minutes at a time, even with support.

1 129. Mr. Gilliam cannot walk very far without support, even on flat
2 surfaces. With his back brace and his walker or cane, he can walk a single city
3 block on a good day. On a bad day, for example, when he is having a lot of back
4 pain, he can barely walk to corner of the street from the Tower.

5 130. Mr. Gilliam cannot functionally navigate more than one half-flight of
6 stairs going up. After that, he experiences pain, shortness of breath, and dizziness.
7 Although both are difficult for him, going up the stairs is much harder for him than
8 going down the stairs.

9 131. During elevator outages, Mr. Gilliam has often waited in his home
10 until the elevators are back in service. He cannot guarantee that he will be able to
11 make it back up the stairs if he goes down the stairs when the elevators are out.

12 132. During at least one elevator outage in the past year, Mr. Gilliam had
13 to call 911 while going up the stairs. He was trying to go up the stairs from the first
14 floor to his fifth floor home, but could not make it up the stairs past the second
15 floor. Mr. Gilliam had trouble breathing, severe fatigue, and could not proceed. He
16 called 911 after using his inhaler did not help. He waited seated on the landing,
17 disoriented, short of breath, drained, claustrophobic, and barely able to move.
18 Emergency personnel put him in a chair and carried him up to the stairs into his
19 apartment.

20 133. When only one elevator is working, Mr. Gilliam has waited fifteen
21 minutes or more for the elevator to arrive. Because of his disabilities, he
22 experiences pain and fatigue while waiting for the elevator, especially if he is
23 returning after physically exerting himself from running errands or going to the
24 doctor's office.

25 134. Mr. Gilliam fears being trapped in the elevator during an outage and
26 how it will affect his health. He also worries about whether he will be able to
27 evacuate the Tower down the stairs in a medical emergency or natural disaster if
28 the elevators are out of service. Defendants have never informed him of any

1 emergency or natural disaster planning for the Program other than exiting through
2 the stairwells.

3 135. In late April 2018, a house fire on the sixth floor caused tenants to
4 have to evacuate their units. The next morning or the morning after, Mr. Gilliam
5 asked Defendants' on-site manager Mr. Ennis whether there were any emergency
6 procedures in place because he and other tenants were panicked and confused
7 about what to do to keep themselves safe. As of the date of this complaint, Mr.
8 Gilliam has not heard back from Mr. Ennis about any plans.

9
10 **St. Timothy's Tower & Manor is a Federal and State funded housing**
11 **program for low-income seniors and/or individuals with disabilities.**

12 136. The Tower has 114 residential units. Two units are occupied by
13 building managers, and the other 112 units are subsidized through Project Based
14 Section 8 funds and low-income tax credits.

15 137. The Program receives federal financial assistance from the United
16 States Department of Housing and Urban Development (HUD) including Project
17 Based Section 8, state financial assistance, and federal low-income tax credits.

18 138. Defendants renewed their Project Based Section 8 contracts for the
19 Program with HUD in 2016 for the next 20 years. The Program received \$777,520
20 in federal funding for the first fiscal year of that contract and continues to receive
21 federal funding.

22 139. The Program received \$17,150,000 in tax-exempt multifamily
23 affordable housing bonds from the State of California.

1 Defendants spent millions of dollars to renovate the Program, but did not
2 fix the elevators.

3 140. The Program’s elevators are over sixty years old.

4 141. From 2015 to 2017, Defendants spent approximately four million
5 dollars renovating St. Timothy’s Tower & Manor.

6 142. In applying for—and eventually obtaining—three quarters of a
7 million dollars in Federal low-income tax credits from TCAC, Defendants
8 reported that they were “in the process of upgrading the entire facility.” These
9 renovations reportedly included elevator rehabilitation.

10 143. In January 2018, Defendants represented to HUD that they had
11 performed a “complete rehabilitation” of the elevators.

12 144. But Defendants did not and instead continue to rely upon an elevator
13 service company to address malfunctions after they occur with band-aid type
14 repairs that do not last and with no real program of preventative maintenance.

15
16 **Defendants’ refusal to maintain a functional elevator system has also**
17 **deprived numerous other tenants with disabilities from equal use and**
18 **enjoyment of their homes.**

19 145. Plaintiffs interact with many of their neighbors in the Tower. Based
20 on these interactions, Plaintiffs are informed and believe that there are at least fifty
21 tenants with mobility disabilities in the building who are adversely affected by
22 Defendants’ refusal to maintain a functional elevator system.

23 146. Because of their disabilities, these other tenants with disabilities
24 cannot walk or have extremely limited walking ability even with an assistive
25 device. Even those who can access stairs in some manner are at significant risk of
26 falling while using stairs.

27 147. Many of these other tenants with disabilities use manual or power
28 wheelchairs, power scooters, walkers, canes, and/or other assistive devices for

1 their mobility needs.

2
3 **Defendants refuse to ensure a functional elevator system despite two**
4 **decades of frequent elevator outages.**

5 148. Both Tower elevators have experienced repeated outages over the last
6 two decades, preventing Plaintiffs and other tenants with mobility disabilities
7 from accessing their homes, and threatening their lives and safety.

8 149. Plaintiffs and several government agencies have repeatedly attempted
9 to address the elevator outages with Defendants. Their efforts were unsuccessful.

10 150. The Compton Fire Department has expressed concerns about these
11 repeated outages to Defendants since at least 1994.

12 151. The Fire Department needs the Tower elevators to be operable when
13 responding to tenant medical emergencies. Only the main elevator can transport a
14 tenant in a medical gurney in a flat, safe position. When that main elevator is out,
15 first responders have no choice but to cram critically ill or injured tenants in the
16 small elevator if it is in operation, manually carry them down the stairs, or
17 transport them down the stairs on gurneys one floor at a time. These inadequate
18 options compromise their administration of medical care.

19 152. On January 13, 1994, following a three-month main elevator outage,
20 the Fire Department issued a “Notice of Violation,” requesting prompt repair of
21 the main elevator because it is “often called to the facility to aid tenants in life-
22 threatening situations” where they “frequently have to use advanced life-support
23 which also includes C.P.R. in treating patients.” The small elevator “due to its size
24 cannot accommodate [the Fire Department] in maintaining continued life support
25 work on [the] victim and time from some floors to the lobby in it exceeds the
26 established standard of thirty seconds (the time allowed for cessation of C.P.R.
27 purposes).”

28 153. On December 19, 2016, the Fire Department issued a “Notice of

1 Violation” and “Stop Work Order” when both elevators went out of service for
2 nearly a month. The Fire Department notice asked that Defendants repair the
3 inoperable elevators “immediately” citing “threats to life safety” that violated the
4 Compton Fire Code.

5 154. On October 25, 2017, the Fire Department ordered Defendants to
6 “repair elevator to full working order” after Plaintiff Hill and another tenant were
7 trapped in the main elevator.

8 155. On June 14, 2017, Senior Deputy Michelle Chambers of
9 Assemblyperson Mike Gipson’s office met with Defendant Ronald Chatman to
10 raise several problems affecting St. Timothy’s tenants, including elevator outages.
11 She reported that Defendant Mr. Chatman “was extremely rude, standoffish and
12 said if the residents didn’t like the condition of the property, they could move.”

13 156. Before filing this Complaint, on November 30, 2017, Plaintiffs,
14 through their attorneys, sent a letter informing Defendants of their legal
15 obligations to maintain operational elevators. Defendants did not respond to that
16 letter.

17 157. Following more elevator outages, Plaintiffs, through their attorneys,
18 sent Defendants a demand letter on December 30, 2017. Defendants did not
19 respond to that letter.

20 158. Plaintiffs sent Defendants follow-up letters on January 11 and 12, 2018.

21 159. Defendants finally responded on January 12, 2018, but did not address
22 Plaintiffs’ concerns.

23 160. On January 24, 2018, several Plaintiffs, through their attorneys, filed a
24 request for assistance with Congresswoman Nanette Diaz Barragan’s office, which
25 resulted in a congressional inquiry with HUD.

26 161. On January 30, 2018, several Plaintiffs, through their attorneys, filed
27 an administrative complaint with the Compton Fire Department.

28 162. From late January to early March 2018, Plaintiffs attempted to

1 negotiate a resolution with Defendants, through their respective counsel.
2 Defendants claimed they would review Plaintiffs' proposal for resolution, but
3 never engaged in any resolution discussions.

4 163. Defendants still refuse to ensure a functional elevator system.

5 164. Thus, Plaintiffs now ask this Court to order Defendants to maintain a
6 functional elevator system for the Program, and to implement lawful reasonable
7 accommodation policies, notice policies, and emergency evacuation policies, to
8 ensure that Plaintiffs and others similarly situated have equal access to their
9 housing when the elevators go out of service.

10
11 **RULE 23(B)(2) CLASS ALLEGATIONS**

12 165. Plaintiffs bring this action on behalf of themselves and all other
13 similarly situated people pursuant to Federal Rule of Civil Procedure 23(b)(2).

14 166. The class includes all current and future tenants of the Tower who
15 have disabilities that affect their mobility and were, are, or will be denied equal use
16 and enjoyment of their housing because of Defendants' failure to maintain a
17 functioning elevator system, and failure to implement lawful reasonable
18 accommodation policies, notice policies, and emergency evacuation policies, to
19 ensure that Plaintiffs and others similarly situated have equal access to their
20 housing when the elevators go out of service.

21 167. The class is so numerous that joinder is impracticable. Plaintiffs know
22 that there are approximately one hundred tenants in the upper floors of the
23 Tower. Based on their interactions with their neighbors in the Program, Plaintiffs
24 believe that the proposed class includes at least fifty members.

25 168. In addition to pure numerosity, joinder is further impracticable
26 because many tenants are unwilling to sue individually for fear of retaliation.
27 Plaintiffs believe this based on conversations with their neighbors in which those
28 neighbors have expressed exactly this fear.

1 169. The class presents common questions of law and fact that are capable
2 of class-wide resolution. These questions are all founded on the central question of
3 whether Defendants have violated federal and state laws by failing to maintain a
4 functioning elevator system. The Court can resolve the class' issues in one stroke.

5 170. Plaintiffs' claims are typical of those of the class at large and
6 Defendants' anticipated defenses will be typical for the entire class. Each of the
7 named Plaintiffs is a current tenant of the Program who has disabilities that affect
8 their mobility and were or will be denied equal use and enjoyment of their housing
9 because of Defendants' failure to maintain a functioning elevator system failure to
10 implement lawful policies as described above

11 171. Plaintiffs will fairly and adequately protect the interests of the class
12 as they are unified in their desire for a functioning elevator system and there is no
13 conflict with any other class member. Plaintiffs have retained counsel to represent
14 the Class who are experienced in class action litigation.

15 172. Defendants' failure or refusal to maintain a functioning elevator
16 system and failure to implement lawful policies as described above has applied
17 generally to the Class such that final injunctive and declaratory relief is
18 appropriate for the Class as a whole.

19
20 **FIRST CLAIM: VIOLATIONS OF FAIR HOUSING AMENDMENTS ACT,**
21 **42 U.S.C. § 3601 *ET SEQ.***

22 173. Plaintiffs incorporate by reference the preceding paragraphs.

23 174. Plaintiffs plead this claim against all Defendants.

24 175. The federal Fair Housing Amendments Act (FHAA) makes it
25 unlawful for a housing provider "[t]o discriminate in the sale or rental, or to
26 otherwise make unavailable or deny, a dwelling to any buyer or renter because of a
27 handicap of that buyer or renter, a person residing in or intending to resident in
28 that dwelling after it is sold, rented, or made available; or any person associated

1 with that buyer or renter.” 42 U.S.C. § 3604(f)(1); 24 C.F.R. § 100.202(a).

2 176. It is also unlawful under the FHAA “[t]o discriminate against any
3 person in the terms, conditions, or privileges of sale or rental of a dwelling, or in
4 the provision of services or facilities in connection with such dwelling, because of
5 a handicap of that person; or a person residing in or intending to reside in that
6 dwelling after it is sold or made available; or any person associated with that
7 person.” 42 U.S.C. § 3604(f)(2); 24 C.F.R. § 100.202(b).

8 177. Discrimination under the FHAA includes “a refusal to make
9 reasonable accommodations in rules, policies, practices, or services, when such
10 accommodations may be necessary to afford such person equal opportunity to use
11 and enjoy a dwelling.” 42 U.S.C. § 3604(3)(B); 24 C.F.R. § 100.204(a).

12 178. Discrimination under the FHAA also includes “[f]ailing or delaying
13 maintenance or repairs of sale or rental dwellings because of ...handicap.” 24 C.F.R.
14 § 100.65(b)(2).

15 179. Defendants are multifamily housing providers subject to the FHAA.

16 180. Plaintiffs are qualified individuals with disabilities within the
17 meaning of FHAA.

18 181. Defendants’ actions and omissions discriminate against Plaintiffs
19 solely because of their disability in violation of the FHAA. Defendants’
20 discriminatory conduct includes but is not limited to failure to accommodate
21 Plaintiffs by maintaining operable elevators, otherwise failing or delaying
22 maintenance and repairs of the elevators, failing to implement lawful reasonable
23 accommodation policies, notice policies, and emergency evacuation policies, to
24 ensure that Plaintiffs and others similarly situated have equal access to their
25 housing when the elevators go out of service, and requiring Plaintiffs to use the
26 stairs if the elevators are out of service. Defendants’ violations of the FHAA have
27 harmed and will continue to harm Plaintiffs in the future.

28 182. Because Defendants’ discriminatory and wrongful conduct is ongoing,

1 declaratory and injunctive relief are appropriate remedies.

2 183. Plaintiffs seeks injunctive relief, and attorney's fees, costs and
3 litigation expenses to address these violations.

4
5 **SECOND CLAIM: VIOLATION OF SECTION 504 OF THE REHABILITATION**
6 **ACT, 29 U.S.C. § 794 ET SEQ.**

7 184. Plaintiffs incorporate by reference the preceding paragraphs.

8 185. Plaintiffs plead this claim against the "Business Defendants," namely:
9 Defendants St. Timothy's Tower & Manor, Inc., St. Timothy's Preservation LP,
10 St. Timothy's Tower and Manor GP LLC, and Levine Management Group, Inc.

11 186. Section 504 of the Rehabilitation Act of 1973 provides in relevant
12 part: "[N]o otherwise qualified individual with a disability shall, solely by reason
13 of her or his disability, be excluded from the participation in, be denied the
14 benefits of, or be subjected to discrimination under any program or activity
15 receiving federal financial assistance" 29 U.S.C. § 794; 24 C.F.R. § 8.4(a). Such
16 programs and activities are prohibited from discriminating against qualified
17 individuals with disabilities because a "recipient's facilities are inaccessible to or
18 unusable by individuals with handicaps." *see* 24 C.F.R. § 8.20.

19 187. In relevant part, Section 504 requires covered programs to: refrain
20 from disability discrimination, ensure program access, provide participants with
21 reasonable accommodations, refrain from utilizing discriminatory criteria or
22 methods of administration, and account for accessibility in alterations to housing
23 facilities.

24 188. **Discrimination prohibited.** Defendants may not in providing any
25 housing, aid, benefit, or service of St. Timothy's directly or through contractual,
26 licensing, or other arrangements, solely on the basis of disability:

- 27 a. "Deny a qualified individual with handicaps the opportunity to
28 participate in, or benefit from, the housing, aid, benefit, or

1 service.” 24 C.F.R. § 8.4(b)(1)(i).

2 b. Provide a qualified individual with handicaps with any
3 housing, aid, benefit, or service that is not as effective in
4 affording the individual an equal opportunity to obtain the
5 same result, to gain the same benefit, or to reach the same level
6 of achievement as that provided to others.” 24 C.F.R.
7 § 8.4(b)(1)(iii).

8 c. “Aid or perpetuate discrimination against a qualified individual
9 with handicaps by providing significant assistance to an
10 agency, organization, or person that discriminates on the basis
11 of handicap in providing any housing, aid, benefit, or service to
12 beneficiaries in the recipient's federally assisted program or
13 activity.” 24 C.F.R. § 8.4(b)(1)(v).

14 189. **Program access.** Each Defendant must “operate each existing housing
15 program or activity receiving Federal financial assistance so that the program or
16 activity, when viewed in its entirety, is readily accessible to and usable by
17 individuals with handicaps.” 24 C.F.R. § 8.24(a). A recipient may comply with the
18 requirements of this section through such means as “alteration of existing facilities
19 and construction of new facilities, or any other methods that results in making its
20 programs or activities readily accessible and usable by individuals with
21 handicaps.” 24 C.F.R. § 8.24(b). Housing receiving HUD Project Based Section 8
22 must “comply with program accessibility requirements of section 504 of the
23 Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24
24 CFR part 8.” 24 C.F.R. § 983.102.

25 190. **Building alterations.** For substantial alterations, Defendants must
26 ensure that a project meets new construction standards for housing facilities “if
27 alterations are undertaken to a project ... that has or more units and the cost of
28 alterations is 75 percent or more of the replacement cost of the completed facility,”

1 24 C.F.R. §§ 8.23, 8.22.

2 191. For all other alterations, Defendants must ensure that “alterations to
3 dwelling units in a multifamily housing project...shall to the maximum extent
4 feasible, be made to be readily accessible to and usable by individuals with
5 handicaps.” 24 C.F.R. §8.22(b)(1). Defendants must also ensure that “alterations to
6 common areas or parts of facilities that affect accessibility of existing housing
7 facilities shall, to the maximum extent feasible, be made to be accessible to and
8 usable by individuals with handicaps.” 24 C.F.R. §8.22(b)(1).

9 192. **Methods of Administration.** Defendants may not in directly or
10 through contractual or other arrangements, “utilize criteria or methods of
11 administration” the purpose or effect of which would:

- 12 a. “Subject qualified individuals with handicaps to discrimination
13 solely on the basis of handicap.” 24 C.F.R. § 8.4(b)(4)(i).
- 14 b. “Defeat or substantially impair the accomplishment of the
15 objectives of the recipient's federally assisted program or
16 activity for qualified individuals with a particular handicap
17 involved in the program or activity, unless the recipient can
18 demonstrate that the criteria or methods of administration are
19 manifestly related to the accomplishment of an objective of a
20 program or activity.” 24 C.F.R. § 8.4(ii).
- 21 c. “Perpetuate the discrimination of another recipient if both
22 recipients are subject to common administrative control...”
23 24 C.F.R. § 8.4(iii).

24 193. Each Business Defendant has been and is a recipient of federal
25 financial assistance sufficient to invoke the coverage of Section 504. These federal
26 funds include HUD Project Based Section 8 funds.

27 194. Plaintiffs have been and are qualified individuals with disabilities
28 within the meaning of Section 504 and are otherwise qualified to participate in or

1 receive benefits from Business Defendants’ programs or activities. 29 U.S.C.
2 § 794(b).

3 195. The Program, including its housing and other benefits, activities, and
4 services are a program, service or activity that Business Defendants offer within
5 the meaning of Section 504.

6 196. Business Defendants caused a substantial alteration to the Program—
7 costing approximately four million dollars—between 2015 and 2017, including
8 alterations to the elevators unrelated to function and alterations in the paths of
9 travel and common areas served by elevators.

10 197. Business Defendants’ actions and omissions discriminate against
11 Plaintiffs solely by reason of their disability in violation of Section 504. Business
12 Defendants’ discriminatory conduct includes but is not limited to a denying
13 Plaintiffs’ meaningful access to housing by failing to maintain operable elevators.

14 198. Business Defendants’ violations of Section 504 have harmed and will
15 continue to harm Plaintiffs in the future.

16 199. Because Business Defendants’ discriminatory and wrongful conduct is
17 ongoing, declaratory and injunctive relief are appropriate remedies.

18 200. Plaintiffs seek injunctive relief, and attorney’s fees, costs and
19 litigation expenses to address these violations.

20
21 **THIRD CLAIM: VIOLATIONS OF CALIFORNIA FAIR EMPLOYMENT AND**
22 **HOUSING ACT, CALIFORNIA GOVERNMENT CODE § 12900 *ET SEQ.***

23 201. Plaintiffs incorporate by reference the preceding paragraphs.

24 202. Plaintiffs plead this claim against all Defendants.

25 203. The California Fair Employment and Housing Act (FEHA) makes it
26 unlawful to “otherwise make unavailable or deny a dwelling based on
27 discrimination because of...disability.” Cal. Gov’t Code § 12955(k).

28 204. FEHA further provides that “[a]ll covered multifamily dwellings with

1 a building entrance on an accessible route shall be designed and constructed in a
2 manner [that allows] the public and common areas [to be] readily accessible to
3 and usable by person with disabilities.” Cal. Gov’t Code § 12955(d).

4 205. FEHA further provides that it is unlawful “[f]or any person subject to
5 the provisions of the [Unruh Civil Rights Act] section 51 of the Civil Code ... to
6 discriminate against any person” on any basis protected under FEHA. Cal. Gov’t
7 Code § 12955(d).

8 206. FEHA further provides that it [i]t is an unlawful practice...for a
9 person to deny or to aid, incite, or consider in the denial of the rights created by
10 Section 51...” Cal. Gov’t Code § 12948.

11 207. Defendants provide multifamily housing at St. Timothy’s Tower &
12 Manor subject to FEHA.

13 208. Plaintiffs are all individuals with disabilities within the meaning of
14 FEHA.

15 209. Defendants’ actions and omissions discriminate against Plaintiffs
16 solely because of their disability in violation of FEHA. Defendants’ discriminatory
17 conduct includes but is not limited to repeated failure to maintain accessible
18 features of their building, *i.e.*, operable elevators, failure to implement lawful
19 reasonable accommodation policies, notice policies, and emergency evacuation
20 policies, to ensure that Plaintiffs and others similarly situated have equal access to
21 their housing when the elevators go out of service, and maintaining a policy
22 requiring that Plaintiffs use the stairs when the elevators are out of service.

23 210. Defendants’ violations of Section 12900 *et seq.* have harmed and will
24 continue to harm Plaintiffs in the future.

25 211. Plaintiff seeks injunctive relief, and attorney’s fees, costs and
26 litigation expenses to address these violations.

27
28

1 and unequal benefit of the programs and services the Business Defendants provide.

2 219. Pursuant to California Government Code § 11139, Plaintiffs have a
3 private right of action to enforce California Government Code § 11135(b).

4 220. Business Defendants' violations of California Government Code §
5 11135 have harmed and will continue to harm Plaintiffs.

6 221. Plaintiffs seek declaratory and injunctive relief as well as reasonable
7 attorneys' fees, costs and litigation expenses to address these violations.

8
9 **FIFTH CLAIM: VIOLATIONS OF THE CALIFORNIA UNRUH CIVIL RIGHTS**
10 **ACT, CALIFORNIA CIVIL CODE § 51 ET SEQ.**

11 222. Plaintiff incorporates by reference the preceding paragraphs.

12 223. Plaintiffs plead this claim against the Business Defendants:
13 St. Timothy's Tower & Manor, Inc., St. Timothy's Preservation LP, St. Timothy's
14 Tower and Manor GP LLC, and Levine Management Group, Inc.

15 224. The Unruh Civil Rights Act ("Unruh Act") provides that "[a]ll
16 persons within the jurisdiction of this state are free and equal, and no matter what
17 their disability [or] medical condition are entitled to the full and equal
18 accommodations, advantages, facilities, privileges, or services in all business
19 establishments of every kind whatsoever." Cal. Civ. Code § 51(b).

20 225. Business Defendants are business establishments in their operation of
21 the Program under the Unruh Civil Rights Act.

22 226. At all times relevant to this action, Plaintiffs have been and are
23 qualified individuals with a disability within the meaning of California law.
24 Cal. Gov't Code § 12926.

25 227. Business Defendants violated the Unruh Act from at least June 2016
26 through the present as described above.

27 228. Business Defendants' acts and omissions were by reason of Plaintiffs'
28 disabilities.

1 Housing Act and ordering Business Defendants to comply with
2 Section 504 of the Rehabilitation Act, California Government Code
3 Section 11135, and the Unruh Act, including:

- 4 a. Ensuring that Plaintiffs have meaningful access to their housing
5 and any programs, services, or activities, by taking all necessary
6 steps to maintain the Tower elevators in operable condition.

7 This includes at a minimum:

- 8 i. Making any immediate repairs and/or upgrades to the
9 Tower elevators that are necessary to render a functional
10 elevator system,
11 ii. Maintaining an adequate service agreement for full
12 preventative maintenance consistent with Title 8, C.C.R.
13 § 3000 et seq., Title 24, C.C.R. Chapter 11a and 11b with
14 an elevator repair service to ensure prompt and regular
15 maintenance and repairs.
16 iii. Paying all licensing fees to keep the elevators
17 operational; posting current operating certificate in the
18 elevators; and maintaining a copy of the current elevator
19 operating certificate for inspection by any tenant,
20 member of the public, or government official in the
21 manager's office during regular business hours.
- 22 b. In consultation with Plaintiffs, developing a plan that includes
23 any policy changes necessary for a durable remedy, including a
24 yearly schedule for elevator inspection, timely and effective
25 notice of outages, and a process for responding to elevator
26 repair requests.
- 27 c. Implementing policies necessary to protect disabled tenants'
28 health and safety and equal access to their homes when the

