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7  
8 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
9 IN AND FOR THE COUNTY OF MARICOPA

10 THE STATE OF ARIZONA *ex rel.* TERRY  
11 GODDARD, the Attorney General; and THE  
12 CIVIL RIGHTS DIVISION OF THE ARIZONA  
DEPARTMENT OF LAW,

13  
14 Plaintiff,

15 vs.

16 WILLIAM LYON HOMES, INC., a California  
17 corporation,

18 Defendants.  
19

No.

**COMPLAINT FOR DAMAGES AND  
INJUNCTIVE RELIEF**

(Non-classified Civil)

20 Plaintiff, the State of Arizona *ex rel.* Terry Goddard, the Attorney General, and the Civil  
21 Rights Division of the Arizona Department of Law, alleges as follows:

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23 **INTRODUCTION**

24 This is an action brought under the Arizona Fair Housing Act to correct an unlawful  
25 housing practice, to provide appropriate relief to aggrieved persons, and to vindicate the public  
26 interest. Specifically, this matter is brought to redress the injury sustained because Defendant's  
27 agent falsely represented the availability of housing at Defendant's Surprise, Arizona

1 residential development because of the prospective purchasers' race, in violation of the  
2 Arizona Fair Housing Act ("AFHA"), A.R.S. § 41-1491.14.

### 3 JURISDICTION AND VENUE

4 1. The Civil Rights Division of the Arizona Department of Law ("the Division") is  
5 an administrative agency established by A.R.S. § 41-1401 to enforce the provisions of the  
6 Arizona Civil Rights Act, A.R.S. § 41-1401, *et seq.*

7 2. The Division brings this action on its own behalf and on behalf of Henry Gates  
8 and S. Marie Gates, the prospective purchasers and aggrieved persons.

9 3. This Court has jurisdiction of this matter pursuant to A.R.S. § 41-1492.09.

10 4. Venue is proper in Maricopa County pursuant to A.R.S. § 12-401(17).

### 11 PARTIES

12  
13 5. At all relevant times, Defendant William Lyon Homes, a California corporation,  
14 was authorized to do, and doing, business in Maricopa County, Arizona. Among other building  
15 projects, Defendant offered for sale, and sold, residential homes and real property in its  
16 Mountain Gate at Copper Canyon Rancho Vistas ("Copper Canyon") development.

17 6. At all relevant times, Eileen Andrews worked as a designated broker and sales  
18 agent for Defendant at the Copper Canyon development.

19 7. At all relevant times, Holly Addison worked as a sales agent for Defendant at the  
20 Copper Canyon development.

21 8. The Division brings this action on its own behalf and on behalf of Henry Gates  
22 and S. Marie Gates, husband and wife, who are aggrieved persons within the meaning of A.R.S.  
23 § 41-1491(1).

### 24 BACKGROUND

25 9. Copper Canyon is a gated community located in the City of Surprise, Arizona.  
26 The community consists of 212 residential homes sites, all of which are approximately one acre  
27  
28

1 lots. Defendant sold five different models of homes in the Copper Canyon development,  
2 including the two-story, 4981 square foot Rancho Tuscana model.

3 10. Based on the following conduct, the Gateses timely filed a verified complaint  
4 with the United States Department of Housing and Urban Development (“HUD”), alleging  
5 discrimination in housing on the basis of race. HUD referred the Gateses’ discrimination  
6 complaint to the Division for investigation.

7 11. On February 28, 2005, Henry Gates and his neighbor visited the Copper Canyon  
8 development. During that visit, they did not speak to any of Defendant’s sales agents.

9 12. After leaving the development, Mr. Gates called his wife, S. Marie, and asked  
10 that she also tour Copper Canyon. Ms. Gates agreed to meet Mr. Gates at the Copper Canyon  
11 development after Ms. Gates got off work.

12 13. Later that night, the Gateses met with Ms. Andrews to discuss the possibility of  
13 purchasing a home in the Copper Canyon development. The Gateses were particularly  
14 interested in the two-story, Rancho Tuscana model.

15 14. Ms. Andrews informed the Gateses that the model homes, including the Rancho  
16 Tuscana model, would be sold in September but that there was a waiting list for the homes. The  
17 Gateses gave Ms. Andrews their contact information and asked to be placed on the model home  
18 waiting list.

19 15. In addition to the model homes, the Gateses inquired about whether there were  
20 any lots available (where the Gateses could have the Rancho Tuscana model built). During the  
21 Division’s investigation, the Gateses testified that Ms. Andrews stated that Copper Canyon was  
22 “completely sold out” and there was nothing left except for the model homes that would be sold  
23 in September.

24 16. However, Ms. Andrews testified during the investigation that the Gateses visited  
25 the Copper Canyon development on February 21 or 22, and that when they visited she knew that  
26 Defendant planned to release an additional 5 to 7 lots on February 28.

1           17. During the Division's investigation, Defendant was unable to provide records  
2 related to the release dates of individual lots or blocks of lots. It did, however, produce an  
3 email dated February 22, 2005 which indicated that the price of the 5 to 7 lots that it would  
4 release on February 28, 2005 would increase \$5000 in price. Defendant pointed to that email as  
5 proof that the lots had not been released at the time of the Gateses' visit, although that assertion  
6 was based on Defendant's erroneous assertion that the Gateses visited Copper Canyon on  
7 February 21 or 22.

8           18. Defendant is incorrect about the date the Gateses initially visited the property.  
9 The Gateses were in Hawaii on February 21 and did not return home until February 22, on  
10 which day the Gateses did not visit the Copper Canyon development.

11           19. Ms. Andrews, therefore, must have known on the date of the Gateses visit that  
12 Defendant had released the 5 to 7 lots that very day and that Copper Canyon was not completely  
13 sold out.

14           20. On March 1, the day after the Gateses visited Copper Canyon, they learned that  
15 there were lots available and called Defendant's sales office to complain. The woman who  
16 answered the phone, Ms. Addison, confirmed that there were lots available at Copper Canyon.  
17 Ms. Addison also informed the Gateses, for the first time, that there was a waiting list for the  
18 lots, not just the model home, and that the Gateses' name was on that lot waiting list.

19           21. During the investigation, Ms. Andrews and Ms. Addison testified that they did not  
20 actually maintain a potential homebuyer list, per se, but instead they would collect the names  
21 and telephone numbers on "old marketing cards." Ms. Addison stated, in a July 12, 2005  
22 affidavit, that she was unable to produce any of these marketing cards because she had thrown  
23 them out. Ms. Addison explained that she did not specifically recall discarding the cards, and  
24 "was not cognizant of the need to maintain them because [she] believed that the investigation  
25 into the Gates matter had been completed and the controversy closed." This affidavit was  
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1 written four months after the Gateses filed their complaint, and three months before the  
2 conclusion of the Division's investigation.

3 22. A few days later, Ms. Addison learned that the prospective purchaser for lot 46  
4 (one of the lots released on February 28) would not be able to buy the home. Because Ms.  
5 Addison was not scheduled to work the following two or three days, Ms. Addison left a request  
6 that Ms. Andrews call the Gateses to let them know they could purchase lot 46.

7 23. Another three days later, Ms. Andrews called Ms. Gates and informed her that lot  
8 46 was available and the Gateses could come to her office and pick up a sales packet which  
9 included information on Defendant's lender.

10 24. By the time lot 46 was offered to the Gateses, the price of the Rancho Tuscana  
11 model that the Gateses wanted increased from a base price of \$518,000 to \$583,000. The  
12 Gateses refused to purchase the lot because of how Ms. Andrews misrepresented the availability  
13 of homes on February 28 and their suspicion that her reason for doing so was because of their  
14 race.

15 25. At the conclusion of the Division's investigation, Plaintiff determined that there is  
16 reasonable cause to believe that Defendant discriminated against the Gateses because of their race by  
17 misrepresenting the availability of lots in Copper Canyon, in violation of the AFHA.

18 26. The Division issued its Cause Finding on October 11, 2005, and since that time,  
19 the Division, the Gateses, and Defendant have not entered into a Conciliation Agreement,  
20 necessitating the filing of this Complaint pursuant to A.R.S. § 41-1491.29(D).

21 **STATEMENT OF CLAIM**

22 **(Discrimination in Violation of A.R.S. § 41-1491.14,**  
23 **Arizona Fair Housing Act, Relating to Discrimination in the Sale of a Dwelling)**

24 27. Plaintiff realleges and incorporates by reference the allegations contained in  
25 paragraphs 1 through 26 of this Complaint.  
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1           28.    A.R.S. § 41-1491(7) of the AFHA defines “dwelling,” as either:

2                   (a) Any building, structure or part of a building or structure that is  
3                   occupied as, or designed or intended for occupancy as, a residence  
4                   by one or more families.

5                   (b) Any vacant land that is offered for sale or lease for the  
6                   construction or location of a building, structure or part of a building  
7                   or structure described by subdivision (a) of this paragraph.

8           29.    During the relevant time period, Defendant was engaged in the selling of  
9           “dwellings” within the meaning of A.R.S. § 41-1491(7) of the AFHA.

10           30.   Under A.R.S. § 41-1491.14(A) of the AFHA, a person may not refuse to sell a  
11           dwelling after a bona fide offer has been made, or refuse to negotiate for the sale of a dwelling,  
12           or otherwise make unavailable or deny a dwelling to any person because of race or color.

13           31.   Under A.R.S. § 41-1491.14(B) of the AFHA, a person may not discriminate  
14           against any person in the terms, conditions or privileges of sale of a dwelling, or in providing  
15           services or facilities in connection with the sale, because of race.  
16           17

18           32.   On February 28, 2005, the Gateses inquired about the availability of dwellings for  
19           sale at Defendant’s Copper Canyon development.  
20

21           33.   On February 28, 2005, Defendant’s agent misrepresented the availability of  
22           dwellings for sale in the Copper Canyon development by indicating the dwellings were sold out  
23           when, in fact, five home site lots had been released that day for sale.  
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25           34.   As a result of Defendants’ discrimination, upon information and belief the  
26           Gateses suffered actual and monetary damages, including damages for mental anguish, pain,  
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1 suffering, emotional distress, humiliation, embarrassment, inconvenience, loss of the right to an  
2 equal opportunity to enjoy his dwelling, and loss of their rights under the AFHA, and is entitled  
3 to and should be compensated pursuant to A.R.S. §§ 41-1491.34 (C).  
4

5 35. As a result of Defendant's discrimination, the Gateses suffered actual damages  
6 including damages for emotional distress, humiliation and loss of civil rights, in an amount to  
7 be determined at trial.  
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9 36. Defendant did not make a good faith effort to comply with the AFHA, and acted  
10 in reckless disregard of the protected rights of a person because of that person's race in  
11 violation of the AFHA.

12 37. Plaintiff is also entitled to injunctive relief against Defendant's actions and  
13 entitled to its attorneys fees and costs pursuant to A.R.S. §§ 41-1491.34 (C) and 41-1491.36.

14 38. Because denying a dwelling to a prospective purchaser because of that person's  
15 race raises an issue of general public importance, Plaintiff is also entitled to injunctive relief  
16 against Defendant's actions, monetary damages, attorneys fees and costs, and other relief,  
17 including a statutory penalty of up to \$50,000 for a first violation pursuant to A.R.S. § 41-  
18 1491.35.

19 **PRAYER FOR RELIEF**

20 WHEREFORE, Plaintiff requests that this Court:

21 A. Enter judgment on behalf of Plaintiff, finding that Defendant unlawfully  
22 discriminated against the Gateses because of race in violation of the AFHA.

23 B. Grant a permanent injunction prohibiting Defendant, its successors, assigns and  
24 all persons in active concert or participation with Defendant, from engaging in any housing  
25 practice that discriminates on the basis of disability in violation of the AFHA.  
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1 C. Assess a statutory civil penalty against Defendant to vindicate the public interest in  
2 an amount that does not exceed fifty thousand dollars (\$50,000.00) for the first violation  
3 pursuant to A.R.S. § 41-1491.35(B).

4 D. Order Defendant to make the Gateses whole and award the Gateses actual and  
5 punitive damages in amounts to be determined at trial, including prejudgment interest.

6 E. Order Plaintiff to monitor Defendant's compliance with the AFHA.

7 F. Grant judgment and award payment to Plaintiff for its costs incurred in bringing  
8 this action, including its attorneys' fees and taxable costs, and its costs in monitoring  
9 Defendant's future compliance with the AFHA.

10 G. Grant such other and further relief as this Court may deem just and proper in the  
11 public interest.

12 Dated this \_\_th day of November, 2005.

13 TERRY GODDARD  
14 Attorney General

15  
16 By \_\_\_\_\_  
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