

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

TRI-HOPE LIFE MINISTRIES, JOEL B.)
HUGHES, AND POWERS AND)
ASSOCIATES II, LLC,)

Plaintiffs,)

v.)

COUNTY OF POWHATAN, VIRGINIA)
AND THE POWHATAN COUNTY)
BOARD OF SUPERVISORS)

Defendants.)

Case Number: _____

COMPLAINT

Preliminary Statements

1. Powhatan County, Virginia strictly enforces an ordinance that is discriminatory on its face, requiring members of a protected class—those with the disability of drug or alcohol addiction—to seek the County’s permission to live together in a recovery home. Powhatan County has never approved any such recovery home, effectively depriving anyone in the protected class from living in a recovery home anywhere in the County. Powhatan County has done this despite a warning from the County’s own former planning director at the beginning of the dispute underlying this Complaint that it is a “slippery legal slope for local governments to ban them outright under the Fair Housing Act.”

2. Tri-Hope Life Ministries (“Tri-Hope”) began operating a recovery home in Powhatan County in February 2023. At the County’s insistence, Tri-Hope applied for a conditional use permit (“CUP” or “Conditional Use Permit”) to permit its residents to live in its

recovery home under the applicable (and discriminatory) Powhatan County ordinance. Tri-Hope also requested a reasonable accommodation under the Fair Housing Act, but the County failed to engage in the reasonable accommodation process before it denied the CUP on discriminatory and retaliatory grounds. Throughout the process, Tri-Hope agreed to every condition recommended by County staff and additional conditions Tri-Hope proposed to address the County's concerns. This Complaint seeks to enjoin Powhatan County from continuing to violate the state and federal rights of Tri-Hope and its residents so that they may live in a recovery home in the community of their choosing free of unlawful discrimination.

Parties

3. Plaintiff Tri-Hope Life Ministries ("Tri-Hope") is a 501(c)(3) nonprofit corporation organized under the laws of the Commonwealth of Virginia with its principal place of operation in Chesterfield, Virginia. Tri-Hope provides recovery homes for individuals recovering from substance use disorders, primarily as part of their release from the criminal justice system. Tri-Hope currently operates one recovery home within Chesterfield County and opened a second recovery home in Powhatan County in February 2023, the latter of which is the subject of this lawsuit.

4. Joel Hughes is the founder and Executive Director of Tri-Hope. He is a Virginia resident who lives in Chesterfield. He is listed as the applicant for the CUP at issue in this case.

5. Powers and Associates II, LLC ("Powers and Associates") is a Virginia limited liability company with its principal place of business in Chesterfield, Virginia. It owns a residential dwelling at 1800 Stonehenge Farm Road (the "Property"), which it leases to Tri-Hope as Tri-Hope's Powhatan County location ("Tri-Hope Stonehenge"). Powers and Associates' sole member is J.L. "Randy" Powers.

6. The County of Powhatan, Virginia, is a county located in the Commonwealth of Virginia situated west of Chesterfield County, Virginia, south of Goochland County, Virginia, and north of Amelia County, Virginia. It is situated in the greater Richmond, Virginia metropolitan area.

7. The Powhatan County, Virginia Board of Supervisors (the “Board” or collectively with Powhatan County, Virginia, “Powhatan,” “the County,” or “Defendants”) is the governing body of Powhatan County, Virginia regarding enforcement of its zoning, building, and property maintenance codes. Powhatan is responsible for the acts of its agents and employees. Powhatan is a public entity under the Americans with Disabilities Act, 42 U.S.C. 12131.

Jurisdiction and Venue

8. This Court has subject matter jurisdiction over this action under 28 U.S.C. Sections 1331 and 1343, 42 U.S.C. Section 3613, and 42 U.S.C. Section 12133.

9. Plaintiffs seek declaratory and injunctive relief pursuant to 42 U.S.C. 3613(c)(1) and 42 U.S.C. Section 12133, as well as Rules 57 and 65 of the Federal Rules of Civil Procedure.

10. Venue is proper in the United States District Court for the Eastern District of Virginia as the Defendant resides within this district, the property at issue is within this district, the Plaintiffs all reside within this district, and all acts complained of occurred within this district.

STATUTORY AND REGULATORY FRAMEWORK

11. In 1988, Congress amended the Fair Housing Act, 42 U.S.C. Section 3601 et seq., to extend the guarantee of fair housing to handicapped individuals. Congress also authorized the Secretary of the United States Department of Housing and Urban Development to promulgate regulations to implement the Fair Housing Act. 42 U.S.C. Section 3614a.

12. Under the Fair Housing Act, the term “handicap” means, with respect to a person, a “physical or mental impairment which substantially limits one or more of such person’s major life activities, a record of such an impairment, or being regarded as having such an impairment.” 42 U.S.C. Section 3602(h). The term “physical or mental impairment” includes “alcoholism” and “drug addiction (other than addiction caused by current, illegal use of a controlled substance).” 24 C.F.R. Section 100.201.

13. Under the Fair Housing Act, it is unlawful to discriminate against or otherwise make unavailable or deny a dwelling to any buyer or renter because of a handicap of that buyer, renter, or person residing in or intending to reside in that dwelling after it is sold, rented, or made available. 42 U.S.C. Section 3604(f)(1).

14. The Fair Housing Act further provides that it is unlawful to discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of the handicap of that person or persons residing in or intending to reside in that dwelling after it is sold, rented, or made available. 42 U.S.C. Section 3604(f)(2).

15. The federal regulations implementing the Fair Housing Act specifically prohibit, as a discriminatory activity, providing municipal services differently because of handicap. 24 C.F.R. 100.70 (d)(4).

16. The federal regulations implementing the Fair Housing Act further make it unlawful, because of handicap, “to restrict or attempt to restrict the choices of a person by word or conduct in connection with seeking, negotiating for, buying or renting a dwelling so as to . . . discourage or obstruct choices in a community, neighborhood or development.” 24 C.F.R. Section 100.70(a).

17. The American with Disabilities Act requires that no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, program, or activities of a public entity, or be subjected to discrimination by any such entity. 42 U.S.C. Section 12132.

18. The federal regulations implementing the Americans with Disabilities Act prohibit a public entity from administering a licensing program in a manner that subjects qualified individuals with disabilities to discrimination on the basis of disability, nor may a public entity establish requirements for the programs or activities of licensees that subject qualified individuals with disabilities to discrimination on the basis of disability. 28 C.F.R. Section 35.130(6).

19. The federal regulations implementing the Americans with Disabilities Act also make it unlawful for a public entity, in determining the site or location of a facility, to make selections that have the purpose or effect of excluding individuals with disabilities from, denying them the benefits of, or otherwise subjecting them to discrimination. 28 C.F.R. Section 35.130(4)(I).

20. Under the Fair Housing Act and the Virginia Fair Housing Law, covered entities such as Powhatan County are required to make reasonable accommodations in their rules, policies, practices, or services in order to afford persons with disabilities to enjoy equal opportunity to enjoy access to dwellings. Va. Code. Sec. 36-96.3(9)(B). If a reasonable accommodation is denied, then the covered entity must engage in an “interactive process” designed to facilitate an agreement between the aggrieved person and the covered entity as to whether an alternative accommodation might be provided. Va Code Sec. 36-96.3:2. Powhatan County failed to engage in an interactive process with Tri-Hope to determine whether any alternatives existed to a flat denial of the Conditional Use Permit.

STATEMENT OF FACTS

21. In 2019, Joel Hughes founded Tri-Hope with the mission of helping individuals suffering from drug and alcohol addiction turn their life around as they exit the criminal justice system. Tri-Hope conducts weekly, faith-based life coaching sessions inside jail and detention facilities. These classes address spiritual, mental, and physical growth needs. In addition, Tri-Hope brings a faith-based service into the Chesterfield County Jail each Sunday morning.

22. While pursuing Tri-Hope's mission, Joel Hughes realized that many individuals were driven back into the criminal justice system through complications with substance use disorders.

23. Beginning in 2019, Tri-Hope began opening recovery homes for individuals in recovery from substance use disorders. Tri-Hope is a faith-based life coaching ministry that works with individuals dealing with addiction in the Chesterfield County Jail seeking to help them maintain recovery and transition to being a productive member of society.

24. The residents of each Tri-Hope recovery home have access to the entire house and all of the household facilities and live in the house as any other group of unrelated persons functioning as a single housekeeping unit. The residents of each house share all household responsibilities. The residents live together purposefully to create a "family" atmosphere, where all aspects of domestic life are shared by the residents.

25. All Tri-Hope residents undergo regular drug and alcohol testing at least on a weekly basis. Drugs and alcohol are not permitted anywhere on the premises. If any resident has a valid prescription from a qualified medical professional, that prescription is maintained by a house leader in a safe that is tracked and monitored to prevent drug abuse.

26. All residents are required to actively look for employment and, after a reasonable grace period of five to six weeks, they are required to work and pay their share of rent and household expenses.

27. Tri-Hope's residents ordinarily enter their residency with Tri-Hope from the criminal justice system; however, Tri-Hope can and would consider residents who are in recovery but have not come through the criminal justice system.

28. Tri-Hope currently operates/supports one recovery home in the County of Chesterfield, Virginia.

29. Since their inception, Tri-Hope's recovery homes have helped many individuals overcome their substance use disorders and have become a trusted resource with the judicial and probationary community in Chesterfield and the surrounding area.

30. Judges in both Chesterfield and Powhatan have ordered offenders to participate in Chesterfield's Helping Addicts Recover Progressively ("HARP") program, which has been the primary source of Tri-Hope's residents. Thus, Tri-Hope serves Chesterfield residents, Powhatan residents, and residents of other surrounding communities.

31. Tri-Hope recovery homes have an 82% recovery rate, far ahead of the benchmark for a successful recovery home nationwide of 30% recovery rate.

Stonehenge Farm Residential Treatment Center

32. On November 10, 2022, after an auction, Powers and Associates purchased a 3.49-acre property at 1800 Stonehenge Farm Road which includes a residential home (the "Property"), with the intention of leasing the property to Tri-Hope to use as a recovery home. When Randy Powers first became aware of the planned auction of the Property, Tri-Hope was operating a male recovery home in the City of Richmond, Virginia. Due to the size, location, and expanse of the

Property and the parcel on which it is located, Mr. Powers contacted Joel Hughes about the potential for Tri-Hope to purchase the Property. Tri-Hope's Board was not then in favor of pursuing a purchase of the Property but was interested in the possibility of renting the Property in lieu of its Richmond location. The Property provided a closer proximity to Tri-Hope's administrative base, recovery classes, employment opportunities, and major highways (e.g., Midlothian Turnpike and Route 288). Mr. Powers therefore purchased the Property at auction and ultimately leased the Property to Tri-Hope so that it could use the Property as a male recovery home.

33. The Property is zoned as Agricultural 10 (A-10) under Powhatan County Ordinance.

34. Before opening Tri-Hope Stonehenge, Plaintiff Mr. Hughes searched Powhatan County local ordinances in good faith for any ordinances addressing recovery homes but did not locate any.

35. On January 16, 2023, Powers and Associates leased the Property to Tri-Hope for use as a residential treatment center to provide residents safe and sober housing to those who need it, which became Tri-Hope Stonehenge.

36. Tri-Hope Stonehenge sought and received certification with the Virginia Association of Recovery Residences ("VARR"), which is a recognized chapter of the National Alliance for Recovery Residences ("NARR"). VARR maintains a partnership with the Virginia Department of Behavioral Health and Developmental Services.

37. This certification included development and approval of a 49-page policies and procedures manual and annual inspections of the residence by VARR. VARR approved Tri-Hope Stonehenge for 16 residents.

38. Residents began moving into Tri-Hope Stonehenge in February 2023.

The Courtesy Notice of Violation and Conditional Use Application

39. On October 2, 2023, Powers and Associates received a Courtesy Notice of Violation from the Powhatan Board of Supervisors (“Courtesy Notice”). A true and correct copy Courtesy Notice is attached as **Exhibit A**.

40. The Courtesy Notice stated that the Board of Supervisors had “received complaints from the public regarding the use of the [Property].”

41. The Courtesy Notice cited to three zoning ordinances:

a. Powhatan County Zoning Ordinance Sec. 83-512(a)(1), which states:

(a) Violations generally. (1) Failure to comply with ordinance or term or condition of approval constitutes ordinance violation. Failure to comply with a standard, requirement, prohibition, or limitation imposed by this chapter, or the terms or conditions of any development approval or permit, conditional use permit, or other authorization granted in accordance with this chapter shall constitute a violation of this chapter punishable as provided in this article.

b. Powhatan County Zoning Ordinance Sec. 83-512(b)(2), which states:

(b) Specific violations. It shall be a violation of this chapter to undertake any activity contrary to the provisions of this chapter, including but not limited to any of the following:

...

(2) Occupy or use land or a structure without first obtaining all appropriate development approvals or permits, and complying with their terms and conditions

c. Powhatan County Zoning Ordinance Sec. 83-521, which states:

Halfway house means a licensed residential facility providing housing, food, supervision, rehabilitation, and counseling to juvenile or adult persons who have had alcohol or drug problems that make it difficult to cope in society or have been placed in the facility on release from, or in lieu of, more restrictive custodial confinement under the criminal justice system. The purpose of such facilities is to provide residents a supportive family living environment and care that will help mainstream them back into society. (See principal/use-specific standards, Division 1: Standards for Specific Principal Uses and Structures, of Article VII: Use Standards.)

42. After receiving the Courtesy Notice, Plaintiffs researched the cited ordinances.

43. Of the twenty-four types of use districts within the Powhatan County Zoning Ordinance, none identify a “Halfway house” as a permitted use. Five districts identify a “Halfway house” as a conditional use, including the A-10 district for which the Property is zoned.

44. The Ordinance applicable to the A-10 district states that a conditional use is “allowable as principal uses in the A-10 District only on approval of a conditional use permit and subject to any referenced use-specific standards and all other applicable regulations of this chapter.” Powhatan County Zoning Ordinance Sec. 83-162.

45. All other Ordinances allowing a “Halfway house” as a conditional use in other zoning districts contain identical requirements and identical language apart from the name of the district. *See* Powhatan County Zoning Ordinance Sec. 83-212 (zoning district R-2); *id.* Sec. 83-222 (zoning district VR); *id.* Sec. 83-237 (zoning district CHSC); *id.* Sec. 83-232 (zoning district VC); *see also id.* Sec. 83-432(d)(5)(b) (“Any halfway house shall be located at least 2,600 feet from any other halfway house.”).

46. Although Plaintiffs were and remain doubtful that the definition “Halfway house” is lawful or applies to Tri-Hope Stonehenge, because the County requested that they do so, they prepared an Application for a Conditional Use Permit (the “CUP Application”) to operate a residential treatment center for up to 15 residents at Tri-Hope Stonehenge. A true and correct copy of the CUP Application is attached as **Exhibit B**. Tri-Hope paid a \$1,500 application fee to the County as part of the CUP Application.

47. Plaintiffs submitted the CUP Application to Powhatan County on or around October 20, 2023.

48. As required by the CUP application process, Mr. Powers and Mr. Hughes met with Mr. Sean Clendening of the Planning Department Staff to discuss next steps. During the meeting, Mr. Clendening said that there was no reason to deny the application unless it was within 2,600 feet of a “Halfway house,” which it is not.

49. As required by the CUP application process, Mr. Powers and Mr. Hughes held a public meeting at Tri-Hope Stonehenge on January 4, 2024—10 days after advertising the meeting with a yard sign. Between 55 and 70 people attended the meeting with approximately 10% of those in attendance strongly expressing displeasure that the recovery home was in the vicinity. Powhatan County member of the Board of Supervisors William Donati, Jr., District 1 Representative, attended the meeting along with Mr. Clendening.

50. The Conditional Use Permit was placed on the Agenda for the Powhatan County Planning Commission public meeting on January 18, 2024. Upon information and belief, the CUP Application was also published in the Powhatan Today weekly newspaper on December 20, 2023, for public review.

51. In advance of the January 18 meeting, Planning and Zoning Department staff prepared a report to the Planning Commission on the CUP Application (the “Planning Commission Staff Report”). A true and correct copy of the Planning Commission Staff Report is attached as

Exhibit C.

52. The Planning Commission Staff Report included a list of recommended conditions to be applied to Tri-Hope’s requested CUP.

53. The Planning Commission Staff Report also included comments from other County agencies’ review of the CUP Application:

- a. The Building Department noted that it would require a “Change of Use” permit and that Tri-Hope Stonehenge would need to have plans associated with the application designed and conforming to the Virginia Construction Code.
- b. The Department of Public Works had no review comments, as the CUP Application did not require a connection to the County’s water and sewer or utility connections.
- c. The Health Department noted that the current septic system had capacity for a 3-bedroom, 6 occupant dwelling, and Tri-Hope Stonehenge would need to apply for a permit for a septic system that could handle the proposed 15 occupants.
- d. The Department of Transportation noted no direct impact and took no exception to the CUP Application.

54. The Planning Commission Staff Report concluded by recommending denial of the CUP Application for three reasons:

- a. “Many questions remain on how feasible the project is at the current location. The Building Department would need to approve of a ‘Change of Use.’ The status of its approval is not known until the application has been received. The Health Department would require a well and septic that fits the increased bedroom number, which we currently do not know at this time.”
- b. “The ability of staff to do inspections and enforce the conditions set on the property would be costly and limited in scope.”
- c. “No rules have been received [from] applicant for the operation of the facility.” Ex. C at 8-9.

55. Although cited as a basis to deny the CUP application, neither Mr. Powers nor Mr. Hughes had ever received a request for the rules and procedures for Tri-Hope Stonehenge; however, Mr. Hughes offered to provide the homes rules and procedures during the Planning Commission meeting, but that offer was not accepted.

56. Included as part of the Planning Commission Staff Report was an email exchange between Mrs. Debbie Weir, a resident of the subdivision abutting the property, and members of the Planning Commission and Board of Supervisors. *See* Ex. C, at 22-24.

57. In response to Ms. Weir's emailed questions regarding the CUP Application, Michael Ciriello, staff member and Planning Director for the Powhatan Planning Commission who has since left his employment with Powhatan County, responded that: "The plan for the property is as a half-way house and it is a slippery legal slope for local governments to ban them outright under the Fair Housing Act." Ex. C, at 24.

58. The CUP Application, the Planning Commission Staff Report, and this email exchange were all included with the Agenda for the Powhatan Planning Commission January 18 meeting.

59. Plaintiffs Mr. Powers and Mr. Hughes attended the January 18, 2024, Powhatan Planning Commission public meeting and spoke on Tri-Hope's behalf.

60. Pertinent comments made during the January 18, 2024, Powhatan Planning Commission public meeting include:¹

- a. A board member stated it would be helpful to have a layout of the residence to visualize the space, bedrooms, and beds.
- b. A County staff member stated that they had requested Tri-Hope Stonehenge's policies and procedures but did not receive them in a "timely manner." However, neither Mr. Powers nor Mr. Hughes recalls receiving any such request for policies and procedures.
- c. Randy Powers spoke during the public comment period to note that the residents of Tri-Hope Stonehenge are in a protected class under Fair Housing law. He also noted that federal law and cases classify recovery houses as single-family residences.
- d. Joel Hughes also spoke during the public comment period, stating that he had the Tri-Hope Stonehenge policies and procedures with him and could provide them to the Planning Commission now, but no staff member or member of the Planning Commission accepted his offer. He offered to fix or help to maintain any access roads to the property (a concern raised by some residents), enter into the road maintenance agreement, and requested that the Planning Commission give Tri-

¹ A full recording of the January 18, 2024, Powhatan Planning Commission public meeting can be viewed at: <https://www.youtube.com/watch?v=8Ly0xyETUa8>. The conversation regarding the CUP Application begins around the 34-minute mark.

Hope a short extension so that they could provide any additional information and upgrade the septic system and anything else necessary.

- e. In response to a resident during public comment, a commission member confirmed that there are no approved recovery homes in Powhatan County.
- f. One board member asked for clarification from the County Attorney whether Tri-Hope was considered a business. The County Attorney responded that as a 501(c)(3) it is not technically a business.
- g. When the members of the Planning Commission asked for further explanation of staff's recommendation to deny the CUP application, staff provided the following additional explanations:
 - i. They were concerned that Tri-Hope was operating without the County's knowledge.
 - ii. When staff requested information, they alleged that it was slow to come or not at all.
 - iii. They accounted for the concerns of the neighbors.
 - iv. However, they confirmed that the change of use was not a land use issue as it was in the purview of the Building commission.
- h. During the meeting a number of members of the public made comments that indicated that they opposed the granting of the CUP because they harbored prejudices towards the residents or potential residents and did not wish for proximity between those residents and their own homes. Some of the comments were as follows:
 - i. "The proposed use of the property as a recovery facility inevitably increases the risk of unwelcome behavior on Stonehenge Farm Private Road and the Associated residences, some of which include children."
 - ii. "This type of business [recovery home] in our residential neighborhood has the potential impact of reducing the property value of other current residences on Stonehenge Farm private road."
 - iii. "The fact that the enterprise was brought into this location without the County's knowledge or going through the proper zoning and approval process, speaks volumes."
 - iv. "This recovery home that has illegally placed itself at the entrance of our quiet private road is of major concern for me. It concerns me now for our safety here in the community and for my family. It concerns me for our school system being that it is situated on a corner that is a bus stop for our

children. I am very concerned that this business being at the forefront of our neighborhood . . . will severely impact the property values of all surrounding homes with the impact being largely to Stonehenge Farms residents. It concerns me for the likelihood that parents of our children's friends will no longer allow them to attend hang outs or events that our children decide to host out of concerns that this type of business [a recovery home] is at the forefront of our private road. It also concerns me to possibly lose that peaceful living and always having to be on alert that right down the road from us lives up to possibly 16 individuals that are recovering from hard drugs such as heroin."

- v. "When we were on the hunt for the perfect place to raise our family in Powhatan, I would have never imagined that in four years . . . a recovery home would try to move into a single-family home on a private road that we bought into. And if you had told me that, I would have chosen to move elsewhere, as that does not reflect where I imagine bringing up my family here in Powhatan."
- vi. "Conditions [believed to exist in recovery homes] often involve violence, abuse, neglect and residents that walk away or escape."
- vii. "Without accountability, we have no way of knowing who or what is being brought into our community. And unfortunately, the covert way that this business was established does not inspire confidence nor engender trust."
- viii. "I was very disappointed with the ministry for not telling the County or the neighbors, I understand there were some complaints along the way, and as a Christian, that was disappointing to me. So it has cast doubt as to whether they will be in compliance with state or County ordinances."

61. The Planning Commission voted 4-0 to deny recommending to the Powhatan County Board of Supervisors that they approve the CUP Application. Reasoning provided by the Planning Commission included:

- a. The Property is on a private road. One commission member stated that covenants and restrictions she was familiar with would not allow a facility like Tri-Hope Stonehenge, although she did not state that she had reviewed any covenants or restrictions related to the Property or private road at issue here.
- b. The Plaintiffs did not reach out to the County before opening Tri-Hope Stonehenge to ensure they followed County ordinances and operated for nearly a year without notifying the County.
- c. Concerns that the ring cameras which provided security recording could lose operation during an internet or extended power outage.

d. Concerns that the residence and its amenities, including septic system, could not support 15 people and were not safe or adequate.

62. Upon information and belief, the Planning Commission relied in part upon the prejudiced public opposition to the location of the home due to the nature of its residents in denying the permit.

63. During the Planning Commission Meeting, Mr. Powers stated that as a landlord of multiple properties and a licensed realtor, he believed that he could not lawfully deny leasing to Tri-Hope because of its status as a recovery home, as its residents belong to a protected class under the Fair Housing Act.

64. After the Planning Commission meeting concluded, Mr. Powers was discussing the vote with another Powhatan County employee who indicated that nobody had informed him that the house was approximately 5,000 square feet as opposed to approximately 3,000 square feet. As that conversation occurred, the County Attorney passed Mr. Powers and made a comment to the effect of “they are not a protected class, lawyer up,” then walked away.

65. The CUP Application was then set for a public hearing at the February 26, 2024, Powhatan Board of Supervisors meeting.

The Reasonable Accommodation Request

66. On January 19, 2024, Plaintiff’s counsel, Mr. John Erbach, sent a letter to the County Attorney asserting that Tri-Hope Stonehenge is a protected class under the Fair Housing Act and requesting that Powhatan County either accept the CUP Application or grant a reasonable accommodation under the Fair Housing Act to its zoning laws to allow Tri-Hope Stonehenge to operate (the “Jan. 19 Reasonable Accommodation Letter”). A true and correct copy of the Jan. 19 Reasonable Accommodation Letter is attached as **Exhibit D**.

67. The Jan. 19 Reasonable Accommodation Letter also acknowledged the septic system issues identified by the Health Department and stated that Mr. Powers was currently working with engineers to submit a plan to upgrade the existing septic system and, consistent with the request for a reasonable accommodation, would have the existing system pumped monthly until the new system was approved and installed. *Id.* at 3.

68. The Jan. 19 Reasonable Accommodation Letter was provided to the County Attorney by email, leading to an exchange of emails between Tri-Hope's counsel and the County Attorney. A true and correct copy of this email exchange is attached as **Exhibit E**.

69. On January 23, 2024, Tri-Hope's counsel had a telephone conversation with the County Attorney regarding Tri-Hope's reasonable accommodation request, reiterating Tri-Hope's willingness to address the County's concerns and find an accommodation that worked for both parties. The County Attorney raised some specific concerns the County had, including how Tri-Hope was asserting that a property listed in the County records as a 3-bedroom house was actually a 6-bedroom house that could accommodate 15 residents. Tri-Hope's counsel agreed to provide further information in response to these concerns and offered to provide any other information. The County Attorney also agreed to speak with his client to determine under what conditions Tri-Hope Stonehenge might receive accommodation.

70. On February 5, 2024, Tri-Hope's counsel sent an email to the County Attorney: (i) noting that home at the Property was well over 5,000 square feet and offering to arrange a tour for the County Attorney or any other County board members or employees; (ii) explaining that based on current research, it appeared that the original owner of the Property who built the house in the mid-1980s had finished the second floor and failed to submit the plans to the County, leading to the discrepancy between the listed 3-bedrooms and actuality of 6 bedrooms; (iii) noting that an

additional two rooms downstairs were functional bedrooms, even if not identified as such in the County records; (iv) providing a floor plan showing where each bed was currently located; (v) stating that VARR approved the house for 16 residents based on the square footage but offering as part of the accommodation process to agree to limit occupancy to 12 permanent full-time residents, well under the capacity of the anticipated upgrade to the septic system; (vi) offering as part of the accommodation process to facilitate the provision of VARR's annual inspection report of the home to any County staff member that you wish to designate; and (vii) confirming that the septic system would be upgraded to accommodate the offered reduction to 12 permanent residents and would be pumped monthly in the interim (the "Feb. 5 Email"). Ex. E, at 6-7.

71. The Feb. 5 Email requested that the County consider the proposal and reply as to whether the County would agree to accommodate Tri-Hope under these circumstances. *Id.* at 6.

72. On February 6, 2024, the County Attorney sent an email thanking Tri-Hope for the information and stating that he would relay it to his client. *Id.* at 5.

73. On February 8, 2024, Tri-Hope's counsel sent an email enclosing a link to a video tour of Tri-Hope Stonehenge to further address the expressed concerns regarding the size of the house and suitability for housing 12 residents. *Id.* at 4.

74. The County Attorney acknowledged receipt of this email but did not otherwise reply.

75. On February 20, 2024, Tri-Hope's counsel sent an email to the County Attorney summarizing Tri-Hope's reasonable accommodation request and steps taken to address the County's concerns, requesting the county's position, and agreeing to defer the case to a Board of Supervisors meeting if the County needed more time to consider the request or gather additional information. *Id.* at 2-3.

76. This email also noted that the County assessor had inspected the property and indicated that County records would be updated sometime after February 21, 2024, to identify it as a 6-bedroom house of over 5,000 square feet. *Id.* at 3.

77. On February 21, 2024, the County Attorney responded that he would not have an opportunity to meet with his client before the Board of Supervisors meeting set for February 26 and “so we will just have to see how the BOS feels about it.” *Id.* at 2. The County Attorney also suggested that Tri-Hope “formally let staff know that the occupancy request is now 12 not 15.” *Id.*

78. The County Attorney stated that Tri-Hope should provide this information to Mr. Clendening.

79. On February 21, 2024, Tri-Hope sent an email to Mr. Clendening reiterating its reasonable accommodation request and restating the compromises proposed to the County Attorney (the “Feb. 21 Email to M. Clendening”). A true and correct copy of the Feb. 21 Email to M. Clendening is attached as **Exhibit F**.

80. On or shortly before February 22, 2024, Tri-Hope learned through an oral communication that a note was allegedly entered in the City of Petersburg Department of Probation computer system stating that the Powhatan County Attorney had stated that Tri-Hope Stonehenge was in violation of Powhatan County zoning ordinances (the “Probation Note”). Tri-Hope understands that the Probation Note was entered in or around November 2023. The Powhatan County Attorney has since denied speaking with the City of Petersburg Department of Probation about Tri-Hope Stonehenge or knowing how the Probation Note came to be disseminated. A true and correct copy of an email exchange between J. Erbach and T. Lacheney is attached as **Exhibit G**. The Probation Note has since been replicated in at least the Chesterfield County Department of Probation. As a result, certain residents who require the approval of the Virginia Department of

Corrections for their post-incarceration housing arrangements can no longer get approval to live in a Tri-Hope home. Accordingly, many such individuals may be forced to live with family members in which they may be surrounded by drugs and alcohol, posing a serious challenge to their recovery.

81. Since the communications related to the Probation Note occurred, Tri-Hope has received a copy of an Investigation Report, a true and correct copy of which is attached as **Exhibit H**. The Investigation Report contains a notation at the bottom which, although not identical to the information previously learned orally, appears consistent with the Probation Note.

82. Around the time that Tri-Hope learned about the Probation Note, Mr. Hughes began getting questions from Chesterfield judges, HARP participants, and the Chesterfield County Sheriff and his staff concerning Tri-Hope's ability to provide a recovery home due to Powhatan County's position concerning Tri-Hope Stonehenge.

The Board of Supervisors Hearing

83. On February 26, 2024, the Powhatan County Board of Supervisors held a public hearing where they considered the CUP Application.²

84. Mr. Clendening presented the issue on behalf of Board of Supervisors staff and recommended denial based on an assessment of project feasibility and review of public comments for and against the CUP Application.

85. Mr. Clendening's presentation included the accommodations which Tri-Hope had offered to the County Attorney. A Board member asked when these accommodations were provided and Mr. Clendening stated the prior week.

² A full recording of the February 26, 2024, Powhatan County Board of Supervisors public meeting can be viewed at: <https://www.youtube.com/watch?v=z2xzRnESF4Q>. The conversation regarding the CUP Application begins around the 31:30-minute mark.

86. Upon information and belief, the County Attorney did not timely convey Tri-Hope's Jan. 19, 2024, reasonable accommodation request and subsequent emails and related offers to the Board of Supervisors, if at all.

87. A board member questioned whether there was a limit in the code on the number of people who could be in the residence. Mr. Clendening said there was no limit in the code and that any occupancy limits would be based on what the building or health department would allow. Mr. Clendening added that Tri-Hope had provided plans for 12-person occupancy to the health department and it appeared the plans would be approved pending completion of the septic upgrade.

88. Mr. Clendening also clarified that there was no report that the current septic system had failed; just a concern from the health department over the septic size based on number of bedrooms.

89. Tri-Hope's counsel Mr. Michael Rothermel spoke on behalf of Tri-Hope.

90. Tri-Hope clarified that it is not a business, but a residence like any other except that its residents are all addicts in recovery.

91. Tri-Hope stated that it would agree to every condition recommended by the Planning Commission Staff Report and reiterated the additional proposed concessions it had provided over the prior month.

92. Tri-Hope confirmed that the landlord was in the process of upgrading the septic system and anticipated that work would be completed by the end of March. *See supra* at paragraph 67.

93. Tri-Hope informed the Board of Supervisors that the Ordinance was discriminatory on its face, as requiring a group of people to go through a CUP process which others did not solely on their status as a protected class violates the Fair Housing Act.

94. Tri-Hope further noted that it had made a request for reasonable accommodation under the Fair Housing Act and did not believe the County has engaged in this process as required under the law. Nonetheless, to the extent the CUP could be considered a proxy for the reasonable accommodation process, Tri-Hope has agreed to all staff recommendations and was open to discussing others.

95. Additionally, Joel Hughes apologized for missing the ordinance at issue and stated that Tri-Hope was ready to sit down with anyone to address any issue they may have and try to find a reasonable resolution in furtherance of the requested reasonable accommodation.

96. After Tri-Hope completed its presentation, a board member stated:

Powhatan Count has rules. You came into the County. You didn't contact one person about running your business. The only reason we are here is because you didn't do that and now you've got an attorney threatening us with a lawsuit if we don't grant your CUP. That's what I don't appreciate.

97. One board member asked whether the County Sheriff, who was in attendance, had had any issues with Tri-Hope Stonehenge. The County Sherriff stated that he was aware of the Tri-Hope Stonehenge but had not had any issues with it.

98. During the meeting a number of members of the public made comments that indicated that they opposed the granting of the CUP because they harbored prejudices towards the residents or potential residents and did not wish for proximity between those residents and their own homes. Some of the comments were as follows:

- a. "There are several reasons I am opposed to the Hughes CUP. I will focus my comments on citizen safety and site selection."
- b. "Many [recovery] houses have poor living conditions with inadequate and poorly trained staff. Conditions often involve violence, abuse, neglect, and residents that walk away or escape."
- c. "Without accountability we have no way of knowing who or what is coming into our County."

- d. “The covert way this business was established coupled with the inability to provide basic operating information to the Planning Commission does not inspire confidence or engender trust in their ability to safely and effectively manage a high-risk business [*i.e.*, a recovery home].”
- e. “Selecting 1800 Stonehenge Farm Road as a halfway house [*i.e.*, a recovery home] location was a poorly researched decision primarily because it is adjacent to a school bus stop and a residential neighborhood.”
- f. “The proposed use of the property as a recovery facility [home] likely increases the risk of unwelcome behavior on Stonehenge Farm Road . . . and the associated residents some of which include children.”
- g. “The business also has the likely impact of reducing the property value of the current residences on Stonehenge Farm Road.”
- h. “The applicant did not seek input or support from surrounding residents before selecting this location.”
- i. “Counties should not approve any conditional use permits for these facilities until it adopts appropriate zoning standards that adequately protect the rights of the surrounding residents and of the applicant.”
- j. “This is a worthwhile and needed program; however, this program being in this particular rural single-family neighborhood without inadequate septic and well and on a private road is not a proper fit for them or us.”
- k. “If approved, this type of use will require a great deal of monitoring, oversight by the County to ensure the conditions laid-out are being followed and not violated.”
- l. “It’s nothing against the ministry, it’s just the location. . . . It seems to me this program should be in Chesterfield, because that’s where it starts, that’s where it’s churning, that’s where it’s generating its people, and it should stay in Chesterfield.”

99. The Powhatan County Board of Supervisors voted 4-1 to deny the CUP

Application. Pertinent comments made by the board members during their deliberations include:

- a. Repeated statements that Tri-Hope had failed to follow the CUP process as required by County ordinance.
- b. Statement that the Board should not be “a group of people that are going to be defined by that they apply an unequal application of our ordinance.”
- c. The Chairman of the Board also stated that he was concerned that the Sheriff was unaware that Tri-Hope Stonehenge had been operating for over a year, in contradiction to the Sherriff’s statement earlier that he was aware of Tri-Hope Stonehenge.

- d. Board member Robert Powers (“Board Member Powers”) was the lone dissenting vote. Board Member Powers stated that although Tri-Hope had failed to follow the process required by the relevant ordinances, they were attempting to rectify the error and had committed to fixing the issues identified, such as upgrading the septic system and updating the County records regarding the size and number of bedrooms in the Property. Board Member Powers recommended that the Board delay its decision to see whether Tri-Hope could fulfil the commitments promised. His colleagues declined his invitation.

100. Upon information and believe the Powhatan County Board of Supervisors relied in part upon the prejudiced public opposition to the location of the home due to the nature of its residents in denying the permit.

101. On February 27, 2024, the County Attorney responded to a prior email thread, which sparked a further exchange of emails with Tri-Hope between then and March 12, 2024—entirely after the Board had denied the CUP. Over the course of these emails, the County Attorney took the position that the following issues remained impediments to a reasonable accommodation (Ex. G at 11-13):

- a. Tri-Hope did not apply for a CUP under the ordinances at issue before its residents moved to Powhatan.
- b. The septic system issues.
- c. Building permit and code issues.
- d. The residents of Tri-Hope Stonehenge are using Stonehenge Farm Road without an easement.
- e. The threat of enforcing rights under the Fair Housing Act constituted an impediment to considering the request for reasonable accommodation, which caused the Board members to “withdraw” from engaging in the reasonable accommodation process.

102. Each of the foregoing issues—in some cases caused by the County’s own dilatory conduct—were raised after the Board had already voted. Each of the issues set forth in Paragraph

101(a) through 101(e) constitutes *post hoc* pretext and evidences retaliatory and discriminatory animus as follows:

- a. On information and belief, Powhatan County has an established process of sending “courtesy notices of violation” asking noncompliant property owners to apply for a CUP, and often grants the CUP despite the previous alleged noncompliance.
- b. Randy Powers has obtained a Virginia Department of Health permit to install a new septic system that would service up to twelve residents, a true and accurate copy of which is attached as **Exhibit I**. He has also made a down payment to install the system in the amount of \$10,090.00 and contracted to have it installed during the month of March, 2024, weather permitting. Construction was scheduled to begin on or around March 11, 2024, and will be delayed only by weather. Moreover, the County Attorney’s position ignored the offer to pump the septic system on a monthly basis until installation was complete. And, if the Virginia Department of Health approves the septic system, as it has done here, Powhatan County has no authority to reject or otherwise question that approval.
- c. In mid-January 2024, Randy Powers contacted the Powhatan County Building Department by telephone on several occasions to obtain a building inspection and certificate of occupancy (“CO”) for the upstairs portion of the home. During one of these discussions, Mr. Powers spoke with Mr. Clendening. During that conversation, Mr. Powers offered to hire architects and engineers to address any building code issues and to upgrade the septic system. In response, Mr. Clendening discouraged Mr. Powers from spending additional money to address those issues because, according to Mr. Clendening, at least some members of the Powhatan County Board of Supervisors had indicated that they had already decided not to vote in favor of the CUP. At no point could Mr. Powers get any assistance in scheduling a building inspection despite his efforts to do so with the County. A true and correct copy of an email exchange between Mr. Powers and Mr. Clendening dated January 12, 2024, is attached hereto as **Exhibit J**.
- d. The “private road” identified as Stonehenge Farms Road exists over a dirt road that, on information and belief, has been in existence since the 1800s. Powhatan County assigned the street address of 1800 Stonehenge Farms Road for the Property in the mid-1980s and would not have lawfully done so without demonstrable access to the Property on Stonehenge Farms Road. Over nearly four decades, neither the residents on Stonehenge Farms Road nor the County took any issue with the previous owners’ access to the Property, and on information and belief, the previous owner never asserted any rights under the Fair Housing Act or was otherwise in the protected class. Moreover, based on the County Attorney’s and residents’ allegations of unlawful access, Randy Powers has made a claim with his title insurance company which provided \$300,000 in coverage for any challenge to lawful access. Mr. Powers believes that he and the residents of Tri-Hope Stonehenge have lawful access through at least one of the following: (1) title work

demonstrates that the Property was once part of a larger parent tract of 7.29 acres that had public road frontage on State Route 671 and would therefore have an easement by necessity or (2) both aerial photography from 2002 and a sketch map attached to a utility easement dated from 1985 demonstrate that the Property has accessed State Route 671 via a private driveway leading to Stonehenge Farm Road and then to State Route 671 for more than 20 years, thereby establishing an easement by prescription. The County Attorney only raised this issue when neighbors who opposed Tri-Hope Stonehenge selectively provided documents as an act of discrimination and retaliation seeking to eliminate access that had existed for nearly 40 years. Missing from the documents that the County Attorney provided is the road maintenance agreement, which may itself provide a right of access.

e. The County Attorney's position that the invocation of the rights and protections afforded under the Fair Housing Act constituted an impediment to fair and equal treatment under County ordinances constitutes an act of retaliation and evidences discriminatory animus.

103. Based on the foregoing, Tri-Hope filed the instant Complaint.

COUNT I

Declaratory Judgment that the County Ordinance is Facially Discriminatory

104. Tri-Hope realleges all prior paragraphs as if set forth fully herein.

105. Powhatan County ordinance scheme forbids any entity who meets its definition of "Halfway house" to operate within its limits without a conditional use permit.

106. The definition of "Halfway house" includes "a licensed residential facility providing housing, food, supervision, rehabilitation, and counseling to juvenile or adult persons who have had alcohol or drug problems that make it difficult to cope in society."

107. On their face, the definition of Halfway house combined with the ordinances that prohibit anyone meeting that definition from occupancy or use of land without a conditional use permit treats individuals with a disability differently from others solely on the basis of their disability.

108. On their face, Powhatan's ordinances violate the Fair Housing Act 42 U.S.C. Sections 3601, *et. seq*, and its implementing regulations by, among other reasons:

- a. discriminating against individuals with a handicap in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of that handicap in violation of 42 U.S.C.S. § 3604(f)(2); and
- b. enacting or implementing land-use rules, ordinances, procedures, building codes, permitting rules, policies, or requirements that restrict or deny housing opportunities or otherwise make unavailable or deny dwellings to persons because of handicap in violation of 24 C.F.R. § 100.70.

109. Plaintiffs Tri-Hope Life Ministries, Joel B. Hughes, and Powers and Associates II, LLC are associated with, and/or providing housing to people with disabilities as defined in 42 U.S.C. 12102(2).

110. Defendant Powhatan County Board of Supervisors is a public entity under 42 U.S.C. 12131(1).

111. On their face, Powhatan's ordinances violate the ADA by, among other reasons:
- a. utilizing criteria or methods of administration that have the effect of subjecting qualified individuals with disabilities to discrimination on the basis of disability in violation of 28 C.F.R. § 35.130(3)(i); and
 - b. in determining the site or location of a facility, making selections that have the effect of excluding individuals with disabilities from, denying them the benefits of, or otherwise subjecting them to discrimination in violation of 28 C.F.R. § 35.130(4)(i).

COUNT II

Violation of the Fair Housing Act

112. Tri-Hope realleges all prior paragraphs as if set forth fully herein.

113. The Powhatan County Board of Supervisors has violated Plaintiffs' rights under the Fair Housing Act 42 U.S.C. Sections 3601, *et. seq.*, and its implementing regulations by:

- a. denying and otherwise making housing unavailable to the Plaintiffs because of their disability;
- b. using the County's zoning and building codes as a pretext to exclude the Plaintiffs because of their disability;

- c. enforcing discriminatory zoning and building codes and policies on the Plaintiffs because of their disability;
- d. interfering with the right of the Plaintiffs to live in the dwelling of their choice;
- e. failing to make reasonable accommodations to the County's zoning and building codes to afford Plaintiffs an equal opportunity to use and enjoy the Property; and
- f. failing to engage at all in the reasonable accommodation process as required under the Fair Housing Act.

COUNT III

Retaliation under the Fair Housing Act

114. Tri-Hope realleges all prior paragraphs as if set forth fully herein.

115. At least as early as December 26, 2023, Powhatan County's then-Planning Director Michael Ciriello, acknowledged that the CUP Application implicated Plaintiffs' rights under the Fair Housing Act. *See* Ex. C at 24. On information and belief, County staff was aware of the Fair Housing Act well before this date and well before the Courtesy Notice or CUP Application.

116. In November 2023, someone affiliated with Powhatan County and/or the Powhatan County Attorney stated to the City of Petersburg Department of Probation that Tri-Hope Stonehenge was in violation of Powhatan County zoning ordinances and could not accept additional residents.

117. At the January 4, 2024, public meeting, Plaintiffs expressed to those in attendance that the residents of Tri-Hope Stonehenge are in a protected class under the Fair Housing Act. At least one Member of the Board of Supervisors and one Powhatan County staff member were in attendance.

118. At the January 18, 2024, Planning Commission public hearing, Tri-Hope repeatedly asserted that it was a protected class under the Fair Housing Act.

119. After the meeting had concluded, the County Attorney stated that to Mr. Randy Powers that Tri-Hope residents did not belong to a protected class and that Tri-Hope should “lawyer up.”

120. Tri-Hope sent a reasonable accommodation request by letter on January 19, 2024.

121. At the February 26, 2024, Board of Supervisors meeting, a board member stated:

Powhatan County has rules. You came into the County. You didn't contact one person about running your business. The only reason we are here is because you didn't do that and now you've got an attorney threatening us with a lawsuit if we don't grant your CUP. That's what I don't appreciate.

122. After the Board of Supervisors denied the CUP Application, the County Attorney stated that “The almost immediate threat of litigation caused the Board members to ‘withdraw’ and avoid what could have been constructive meetings with your clients. How could we have meaningful dialog when the Sword of Damocles hung over them from the beginning?”

123. Powhatan refused to pursue potential compromise and denied the CUP Application in retaliation for Tri-Hope asserted its rights under the Fair Housing Act.

COUNT IV

Violation of the Americans with Disabilities Act

124. Tri-Hope realleges all prior paragraphs as if set forth fully herein.

125. Plaintiffs are associated with, and/or providing housing to people with disabilities as defined in 42 U.S.C. 12102(2).

126. Defendant Powhatan County Board of Supervisors is a public entity under 42 U.S.C. 12131(1).

127. The actions of the Powhatan County Board of Supervisors to exclude Tri-Hope Stonehenge from its zoning district violate Plaintiffs' rights under the Americans with Disabilities Act, 42 U.S.C. 12132, *et. seq.*, and the regulations promulgated thereunder by:

- a. subjecting the Plaintiffs to discrimination, on the basis of the disability of those they are associated with and for which they providing housing;
- b. using land use and building ordinances and methods of administering those ordinances with the purpose of subjecting the Plaintiffs and the individuals they are providing housing to discrimination on the basis of their handicap;
- c. denying the residents of Tri-Hope Stonehenge, on the basis of their disability, an opportunity to participate in a program in the most integrated setting appropriate to their needs;
- d. denying the individual Plaintiffs and people with disabilities an equal opportunity to participate in or benefit from services and programs equal to those of people without disabilities;
- e. utilizing permit requirements to provide municipal code enforcement services that are not equal to other groups of non-disabled persons;
- f. utilizing permit requirements to deny Plaintiffs because of the handicap of the residents of Tri-Hope Stonehenge the enjoyment of their rights.

COUNT V

Violating of 42 U.S.C. Section 1983

128. Plaintiffs reallege all prior paragraphs as if set forth fully herein.
129. Powhatan, acting under color of state law, is violating Plaintiffs' civil rights under 42 U.S.C. Section 1983 by:

- a. utilizing its zoning code and ordinances and its method of administering those codes with the purpose of subjecting Plaintiffs and Plaintiffs' residents to discrimination solely on the basis of their handicap;
- b. subjecting Plaintiffs and Plaintiffs' residents, solely on the basis of their handicap, to discrimination under its code enforcement activities; and
- c. denying Plaintiffs equal protection of the law guaranteed by the Fourteenth Amendment to the United States Constitution by applying its zoning ordinances and code enforcement activities in such a manner as to arbitrarily and irrationally deny Plaintiffs, because of the handicap of the residents of Tri-Hope Stonehenge, the residential opportunities afforded to other groups of persons.

COUNT VI

Violation of the Virginia Fair Housing Law

130. Plaintiffs reallege all prior paragraphs as if set forth fully herein.

131. Powhatan County Board of Supervisors has violated Plaintiffs' rights under the Virginia Fair Housing Law, Va. Code Sec. 36-96.1, *et. seq.*, by:

- a. denying and otherwise making housing unavailable to the residents that Plaintiffs serve because of their disability;
- b. using the County's zoning and building codes as a pretext to exclude the residents that Plaintiffs serve because of their disability;
- c. enforcing discriminatory zoning and building codes and policies on the Plaintiffs because of the disability of its residents;
- d. interfering with the right of the Plaintiffs' residents to live in the dwelling of their choice;
- e. failing to make reasonable accommodations to the County's zoning and building codes to afford Plaintiffs an equal opportunity to use and enjoy the Property; and
- f. failing to engage at all in the reasonable accommodation process as required under the Fair Housing Act.

RELIEF SOUGHT

WHEREFORE, Plaintiffs pray that the Court find in their favor and award the following relief:

A. Enter a temporary restraining order and/or preliminary and permanent injunctions restraining Defendant County of Powhatan Board of Supervisors from taking actions either directly or indirectly which would interfere in any way with Plaintiffs' current use of the dwelling located at 1800 Stonehenge Farm Road, Powhatan, Virginia;

B. Enter a declaratory judgment that the definition of "Halfway house" in Powhatan County Zoning Ordinance Sec. 83-521, as applied through the conditional zoning requirements found in Powhatan County Zoning Ordinance Sec. 83-162, Sec.83-212, Sec. 83-222, Sec. 83-232, and Sec. 83-237 is facially discriminatory and unlawful.

C. Enter a declaratory judgment that Defendant County of Powhatan Board of Supervisors has illegally discriminated against Plaintiffs by arbitrarily and capriciously applying its zoning and building codes to the occupancy of 1800 Stonehenge Farm Road, Powhatan, Virginia, by groups of recovering alcoholics and addicts, thereby interfering with the Plaintiffs' equal opportunity to use and enjoy a dwelling on the basis of handicap, in violation of the Fair Housing Act and the Americans with Disabilities Act;

D. Enter a temporary restraining order and/or preliminary and permanent injunctions enjoining Defendant County of Powhatan Board of Supervisors, its officers, employees, agents, attorneys and successors, and all persons in active concert or participating with any of them, from interfering with the operation of 1800 Stonehenge Farm Road, Powhatan, Virginia, as a home for recovering alcoholics and substance abusers, and/or from interfering in any way with the rights of the Plaintiffs to reside in those premises;

E. Enter an order declaring that Plaintiffs' use of 1800 Stonehenge Farm Road, Powhatan, Virginia, as a Tri-Hope recovery home is consistent with classification of the premises as a single family dwelling, and requiring The County of Powhatan Board of Supervisors to apply all zoning, safety, property maintenance, and building codes to Plaintiffs' use of 1800 Stonehenge Farm Road in the same manner as it does to all other single family dwellings;

F. Enter an order declaring as unlawful under state and federal fair housing laws Defendants' requirement that residents desiring to reside in a recovery house and/or a "Halfway House" as that term is defined in the Powhatan County Code, but not other types of housing, must first apply for and receive a Conditional Use Permit.

G. Award compensatory damages;

H. Award punitive damages;

- I. Award reasonable costs and attorney fees; and
- J. All other relief which the Court deems just and proper.

Dated: March 21, 2024

Respectfully submitted,

/s/ John M. Erbach

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