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SONYA J. KRASKI
COUNTY CLERK
SNOHOMISH CO. WASH.

SUPERIOR COURT OF WASHINGTON FOR SNOHOMISH COUNTY

NO. 13-2-07751-3

LAMBERT CREEK CONDOMINIUM OWNERS ASSOCIATION, a Washington Non-Profit Company; JANINE JORDAN, a Washington resident; JOHN SINCAVAGE, a Washington resident; NAZREEN HAMID, a Washington resident; TRI DUONG & NGUYET TRUONG, Washington residents; JEREMY HANSEROTH, a Washington resident; LEO KIM, a Washington resident; LES & BEVERELY TROY, Washington residents; ROSANNA & MARK MANGIBIN, Washington residents; WOLDEMICHAEL TISHOME & ASFAW ASTER TEFERA, Washington residents; TESFAI MUSSIE & HAGOS ASTER ZEREZGI, Washington residents; VY BUI, a Washington resident; JAMES LUSK-FAUQUET, a Washington resident; WORKNEH ALEMAYEHU & MEKDES GIRMA, Washington residents; HONG LOAN THI & NGUYEN PHUNG & NGUYEN TON NGOC, Washington residents; GEORGE STAMAS & ESTELLA CHO, Washington residents; VALERIE & JEFFREY OTTINGER, Washington residents; MARK SCOTT, a Washington resident; HUANG DE Z & LIN SI, Washington residents; BRET LANE, a Washington resident; RAYMOND & ELSA BRUNO, Washington residents; EARL HANGSITANG & TRACY CERRILLO,

FIRST AMENDED COMPLAINT FOR BREACH OF WARRANTY; VIOLATION OF WASHINGTON CONDOMINIUM ACT; BREACH OF FIDUCIARY DUTY; MISREPRESENTATION; and BREACH OF CONTRACT

FIRST AMENDED COMPLAINT - 1

CASEY & SKOGLUND PLLC
1319 Dexter Avenue North, Ste. 370
Seattle, Washington 98109
Phone (206) 284-8165

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1 Washington residents; JOAN ENGLAND, a
2 Washington resident; STEVEN SCOTT
3 MICHAELS, a Washington resident;
4 AKRAM ALI & SANA ALTABARANI,
5 Washington residents; SOROTH & HWA
6 SGEB KUO, Washington residents;
7 MICHELLE & LENNY SCHWARTZ,
8 Washington residents; LY KUNTHEA &
9 LEANG BUY, Washington residents;
10 MOTAMED LARIJANI KOOROS, a
11 Washington resident; SOEUNG R. SANG, a
12 Washington resident; MANI & SANTHI
13 SRIRANGATHAMA, Washington residents;
14 RICHARD EILMAN, a Washington resident;
15 LIN XINGPING & DENG JIANXIN,
16 Washington residents

17 Plaintiffs,

18 vs.

19 LAMBERT CREEK DEVELOPMENT LLC,
20 a Washington Limited Liability Company;
21 SDE HOLDINGS, a Washington Limited
22 Liability Company; LAMBERT CREEK
23 LLC, a Washington Limited Liability
24 Company; FIRST SAVINGS BANK
25 NORTHWEST, a Washington Company;
HIGHMARK AT LAMBERT CREEK LLC, a
Washington Limited Liability Company;
HIGHMARK HOMES LLC, a Washington
Limited Liability Company; ROBERT B.
NEHRING, a Washington Resident; ALAN R.
JACKSON, a Washington Resident; TODD
PETERSON, a Washington Resident; TOM
TOLLEN, a Washington Resident,

Defendants.

COMES NOW, Plaintiffs identified above, by and through their attorneys, CASEY &
SKOGLUND PLLC, and assert the following:

FIRST AMENDED COMPLAINT - 2

CASEY & SKOGLUND PLLC
1319 Dexter Avenue North, Ste. 370
Seattle, Washington 98109
Phone (206) 284-8165

PARTIES

1. Plaintiff Lambert Creek Condominium Owners Association is a Washington non-profit corporation and is established, in part, pursuant to Washington Condominium Act RCW 64.34 *et. seq.* Pursuant to Plaintiffs' Covenant Conditions Restrictions and Reservations and RCW 64.34 *et. seq.* and assignments of rights, Plaintiff Lambert Creek Condominium Owners Association pursues these claims in its own name and on behalf of two or more Association Members.

2. Plaintiff JANINE JORDAN is a Washington resident and Lambert Creek Condominium homeowner.

3. Plaintiff JOHN SINCAVAGE is a Washington resident and Lambert Creek Condominium homeowner.

4. Plaintiff NAZREEN HAMID is a Washington resident and Lambert Creek Condominium homeowner.

5. Plaintiffs TRI DUONG & NGUYET TRUONG are Washington residents and Lambert Creek Condominium homeowners.

6. Plaintiff JEREMY HANSEROTH is a Washington resident and Lambert Creek Condominium homeowner.

7. Plaintiff LEO KIM is a Washington resident; and Lambert Creek Condominium homeowner.

8. Plaintiffs LES & BEVERELY TROY are Washington residents and Lambert Creek Condominium homeowners.

1 9. Plaintiffs ROSANNA & MARK MANGIBIN are Washington residents and
2 Lambert Creek Condominium homeowners.

3 10. Plaintiffs WOLDEMICHAEL TISHOME & ASFAW ASTER TEFERA are
4 Washington residents and Lambert Creek Condominium homeowners.

5 11. Plaintiffs TESFAI MUSSIE & HAGOS ASTER ZEREZGI are Washington
6 residents and Lambert Creek Condominium homeowners.

7 12. Plaintiff VY BUI is a Washington resident and Lambert Creek Condominium
8 homeowner.

9 13. Plaintiff JAMES LUSK-FAUQUET is a Washington resident and Lambert
10 Creek Condominium homeowner.

11 14. Plaintiffs WORKNEH ALEMAYEHU & MEKDES GIRMA are Washington
12 residents and Lambert Creek Condominium homeowners.

13 15. Plaintiffs HONG LOAN THI & NGUYEN PHUNG & NGUYEN TON NGOC
14 are Washington residents and Lambert Creek Condominium homeowners.

15 16. Plaintiffs GEORGE STAMAS & ESTELLA CHO are Washington residents and
16 Lambert Creek Condominium homeowners.

17 17. Plaintiffs VALERIE & JEFFREY OTTINGER are Washington residents and
18 Lambert Creek Condominium homeowners.

19 18. Plaintiff MARK SCOTT is a Washington resident and Lambert Creek
20 Condominium homeowner.

21 19. Plaintiffs HUANG DE Z & LIN SI are Washington residents and Lambert Creek
22 Condominium homeowners.

1 20. Plaintiff BRET LANE is a Washington resident and Lambert Creek
2 Condominium homeowner.

3 21. Plaintiffs RAYMOND & ELSA BRUNO are Washington residents and Lambert
4 Creek Condominium homeowners.

5 22. Plaintiffs EARL HANGSITANG & TRACY CERRILLO are Washington
6 residents and Lambert Creek Condominium homeowners.

7 23. Plaintiffs JOAN ENGLAND is a Washington resident and Lambert Creek
8 Condominium homeowner.

9 24. Plaintiff STEVEN SCOTT MICHAELS is a Washington resident and Lambert
10 Creek Condominium homeowner.

11 25. Plaintiffs AKRAM ALI & SANA ALTABARANI are Washington residents and
12 Lambert Creek Condominium homeowners.

13 26. Plaintiffs SOROTH & HWA SGEB KUO are Washington residents and
14 Lambert Creek Condominium homeowners.

15 27. Plaintiffs MICHELLE & LENNY SCHWARTZ are Washington residents and
16 Lambert Creek Condominium homeowners.

17 28. Plaintiffs LY KUNTHEA & LEANG BUY are Washington residents and
18 Lambert Creek Condominium homeowners.

19 29. Plaintiff MOTAMED LARIJANI KOOROS is a Washington resident and
20 Lambert Creek Condominium homeowner.

21 30. Plaintiff SOEUNG R. SANG is a Washington resident and Lambert Creek
22 Condominium homeowner.

1 31. Plaintiffs MANI & SANTHI SRIRANGATHAMA are Washington residents
2 and Lambert Creek Condominium homeowners.

3 32. Plaintiff RICHARD EILMAN is a Washington resident and Lambert Creek
4 Condominium homeowner.

5 33. Plaintiffs LIN XINGPING & DENG JIANXIN are Washington residents and
6 Lambert Creek Condominium homeowners.

7 34. Defendant Lambert Creek Development LLC is a Washington Limited Liability
8 Company.

9 35. Lambert Creek Development LLC is in good standing with the Washington
10 Secretary of State.

11 36. Lambert Creek Development LLC is identified as Declarant for and/or of
12 Lambert Creek Condominium.

13 37. Lambert Creek Development LLC is identified as seller of certain of the
14 condominium homes the subject of this litigation.

15 38. Defendant Lambert Creek LLC is a Washington Limited Liability Company.

16 39. Lambert Creek LLC is in good standing with the Washington Secretary of State.

17 40. Lambert Creek LLC is identified as General Contractor for construction of
18 certain of the condominium homes.

19 41. Defendants Lambert Creek Development LLC and Lambert Creek LLC are
20 alter-egos of one another and share joint and/or severable liability for action or failures to act
21 identified herein and hereafter.

22 42. Defendant SDE Holdings LLC is a Washington Limited Liability Company.

1 43. SDE Holdings LLC is in good standing with the Washington Secretary of State.

2 44. SDE Holdings LLC was an owner and seller of certain of the condominium
3 homes the subject of this litigation.

4 45. SDE Holdings LLC acted as dealer of and/or for certain of the condominium
5 homes.

6 46. Defendant First Savings Bank Northwest is a Washington Company.

7 47. First Savings Bank Northwest is in good standing with the Washington
8 Secretary of State.

9 48. Defendant First Savings Bank Northwest was an owner and seller of certain of
10 the condominium homes the subject of this litigation.

11 49. Defendant First Savings Bank Northwest acted as dealer of and/or for certain of
12 the condominium homes.

13 50. Defendant Highmark at Lambert Creek LLC is a Washington Limited Liability
14 Company.

15 51. Highmark at Lambert Creek LLC is in good standing with the Washington
16 Secretary of State.

17 52. Highmark at Lambert Creek LLC is identified as seller of certain of the
18 condominium homes the subject of this litigation.

19 53. Highmark at Lambert Creek LLC acted as dealer of and/or for certain of the
20 condominium homes.

21 54. Defendant Highmark Homes LLC is a Washington Limited Liability Company.
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1 55. Highmark Homes LLC is in good standing with the Washington Secretary of
2 State.

3 56. Highmark Homes LLC is identified as seller of certain of the condominium
4 homes the subject of this litigation.

5 57. Highmark Homes LLC acted as dealer of and/or for certain of the condominium
6 homes.

7 58. Defendants Highmark at Lambert Creek LLC and Highmark Homes LLC are
8 alter-egos of one another and share joint and/or severable liability for action or failures to act
9 identified herein and hereafter.
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11 59. Defendant Robert Nehring is a Washington resident and is or was Owner or
12 Member of Defendants Lambert Creek Development LLC and/or Lambert Creek LLC and/or
13 SDE Holdings.

14 60. Defendant Robert Nehring is or was self-appointed Officer of Plaintiff Lambert
15 Creek Condominium Owners Association.

16 61. Defendant Alan Jackson is or was Officer or Member of Defendant Lambert
17 Creek LLC.

18 62. Defendant Todd Peterson is a Washington resident and is or was Owner or
19 Member of Defendants Highmark at Lambert Creek LLC and/or Highmark Homes LLC.
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21 63. Defendant Tom Tollen is a Washington resident and is or was Owner or
22 Member of Defendants Highmark at Lambert Creek LLC and/or Highmark Homes LLC.
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1 69. Pursuant to RCW 64.34.443, the Washington Condominium Act, Defendants
2 expressly warranted that any construction conforms to any plans and specifications provided
3 for such construction, to the extent it was not excluded under RCW 64.34.410(1)(w).

4 70. As a direct and proximate cause of the Defendants' conduct the homeowners
5 and Association are damaged in an amount to be proven at trial. Such damages include, among
6 other things, the cost of repairing the damage and stigma damages. Damages include the costs
7 associated with remediation plans and attorney fees in an amount to be proven at trial.

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9 **BREACH OF CONDOMINIUM ACT: RCW 64.34.312**

10 71. Plaintiffs re-allege and incorporate by reference all preceding paragraphs as if
11 fully set forth herein.

12 72. Defendant Declarant and Dealers were required to deliver to the association all
13 property of the unit owners, including minute books, canceled checks, bank statements,
14 financial statements and source documents from the time of incorporation of the Association
15 through the date of transfer of control to the unit owners.

16 73. Defendants were required to deliver to the Association all funds or the control of
17 the funds of the Association.

18 74. Defendants were required to deliver to the Association a copy of the
19 Defendants' plans and specifications utilized in the construction of the condominium, with a
20 certificate of the declarant or a licensed architect or engineer that the plans and specifications
21 represent the actual plans and specifications utilized by the declarant in the construction of the
22 condominium.
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1 75. Defendants were required to deliver to the Association copies of Certificates of
2 Occupancies or the equivalent for each home constructed and sold.

3 76. Defendants failed to provide the information and documentation identified
4 herein and the Plaintiff is harmed thereby in an amount to be proven at time of trial.

5 **BREACH OF CONDOMINIUM ACT: RCW 64.34.405 / .410 / .415 / .420**

6 77. Plaintiffs re-allege and incorporate by reference all preceding paragraphs as if
7 fully set forth herein.

8 78. Defendant Declarant and Dealers were required to prepare a public offering
9 statement in conformance with RCW 64.34.410 and .415, and were required to provide a copy
10 to each Plaintiff in the manner described in RCW 64.34.420.

11 79. The public offering statement was required to include identification of common
12 amenity which materially affects the value of the condominium and any information helpful in
13 describing the condominium to the recipients of the public offering statement.

14 80. The public offering statement was required to include copies of the survey map
15 and plans and the balance sheet of the Association current within 90 days.

16 81. Defendants failed to provide Plaintiffs a public offering statement and/or a
17 public offering statement in compliance with RCW 64.34 et.seq.

18 82. The Plaintiffs are entitled to statutory damages in an amount to be proven at
19 time of trial.

20 **BREACH OF CONDOMINIUM ACT: FIDUCIARY DUTY**

21 83. Plaintiffs re-allege and incorporate by reference all preceding paragraphs as if
22 fully set forth herein.

1 84. Defendants, as Officers or Members of Plaintiff Association, were fiduciaries of
2 Plaintiffs and were required to act, in all instances, on behalf of the Association. Said
3 Defendants were required to put the interests of the Association before their own.

4 85. Defendants violated their fiduciary duty, in part, by failing to ensure the
5 construction of the homes complied with applicable standards, including ensuring each is in
6 receipt of a Certificate of Occupancy or other indication the homes are adequately inspected
7 and habitable prior to their occupancy.

8 86. Plaintiffs are damaged by Defendants' violation of their fiduciary duty in an
9 amount that will be proven at or before trial.

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11 **BREACH OF WARRANTY OF HABITABILITY**

12 87. Plaintiffs re-allege and incorporate by reference all preceding paragraphs as if
13 fully set forth herein.

14 88. The Defendants impliedly warranted that the homes and common elements were
15 habitable; free from defects and damage adversely impacting the useful safe life of the homes.

16 89. The Defendants breached the applicable implied warranty in that defects are
17 serious and substantial and adversely impact the habitability of homes.

18 90. As a direct and proximate cause of the Defendants' conduct the Plaintiffs are
19 damaged in an amount to be proven at trial. Such damages includes costs of repairing the
20 damage caused by defective workmanship and materials, and related costs; the cost; stigma
21 damages; costs associated with the remediation plan and attorney fees in an amount to be
22 proven at trial.

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BREACH OF CONTRACT

92. Plaintiffs re-allege and incorporate by reference all preceding paragraphs as if fully set forth herein.

93. Plaintiffs entered into contracts with the Defendants to purchase their unit, the limited common elements, and the common elements. These contracts contain duties, obligations and warranties that the Defendants violated and/or breached.

94. Under RCW 64.34 and per individual assignments the Association is authorized to pursue these claims on behalf of the individual owners.

95. As a direct and proximate cause of the Defendants' conduct Plaintiffs are damaged in an amount to be proven at trial. Such damages include the cost of repairing the damage caused by defective workmanship and materials; stigma damages; costs associated with acquiring a remediation plan and attorney fees in an amount to be proven at trial.

MISREPRESENTATION

96. Plaintiffs re-allege and incorporate by reference all preceding paragraphs as if fully set forth herein.

97. Defendants represented the homes and community was constructed in compliance with applicable laws, including building codes and was free from defective materials and constructed in a workmanlike manner.

98. Defendants' representations were relied upon by the Plaintiffs to their detriment.

99. As a direct and proximate cause of the Defendants' conduct Plaintiffs are damaged in an amount to be proven at trial. Such damages include the cost of repairing the

1 damage caused by defective workmanship and materials; stigma damages; costs associated
2 with acquiring a remediation plan and attorney fees in an amount to be proven at trial.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiffs pray for judgment against all Defendants as follows:


5 1. Damages for (a) violation of Condominium Act, (b) warranty of habitability, (c)
6 misrepresentation, (d) breach of contract, (e) breach of fiduciary duty and (f) stigma damages in
7 an amount to be proven at trial.

8 2. Attorneys' fees and cost pursuant to statute and contract.

9 3. Such other and further relief as the Court deems just and equitable.

10 DATED October 3, 2013.

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12 Casey & Skoglund PLLC

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15 Chris R. Casey, WSBA #27684
16 Attorney for Plaintiffs
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