



CONCILIATION AGREEMENT

between

**The United States
Department of Housing and Urban Development**

and

Sharon Swafford

Complainant

and

**Infinity Management
Eureka Humboldt Associates, Owner
The Pacific Companies, Developer
Fredrick Brave, Architect
Danco Builders, Contractor
Daniel J. Johnson, Developer
Caleb J. Roope, Developer
Central Valley Coalition for Affordable Housing
Jeanette Hastings, Site Manager**

Respondents

CASE NUMBER: 09-06-1576-8

DATE FILED: August 29, 2006

A. Parties and Subject Property

Complainant: Sharon Swafford, a disabled person

Respondent: Infinity Management

Respondent: Eureka Humboldt Associates

Respondent: The Pacific Companies

Respondent: Frederick Brave

Respondent: Danco Builders

Respondent: Daniel J. Johnson

Respondent: Caleb J. Roope

Respondent: Central Valley Coalition for Affordable Housing

Respondent: Jeanette Hastings

Subject Property: Summercreek Place (aka Eureka Summer Creek Apartments)
1638 Myrtle Ave., #8
Eureka, CA 95501

B. Statements of Facts

On August 29, 2006, Sharon Swafford, a disabled person (Complainant) filed a complaint with the United States Department of Housing & Urban Development (the Department) alleging that she was injured by a discriminatory act of the Respondents. The Complainant alleges that the Respondents violated Section 804(f)(3)(B) of the Fair Housing Act as amended in 1998, 42 U.S.C. §3600 et. seq. (the Act) by failing to accommodate her disability.

C. Term of Agreement

1. This Conciliation Agreement (Agreement) shall govern the conduct of the parties to it for a period of three (3) years from the effective date of the Agreement.

D. Effective Date

2. The parties expressly agree that this Agreement constitutes neither a binding contract under state or federal law nor a Conciliation Agreement pursuant to the Act, unless and until such time as it is approved by the U.S. Department of Housing and Urban Development, through the FHEO Regional Director or his or her designee.

3. This Agreement shall become effective on the date on which it is approved by the Regional Director, Fair Housing and Equal Opportunity (FHEO), San Francisco Region, U.S. Department of Housing and Urban Development.

E. General Provisions

4. The parties acknowledge that this Agreement is a voluntary and full settlement of the disputed complaint. No party has been coerced, intimidated, threatened, or in any way forced to become a party to this Agreement. The parties have read and fully understand the significance of the terms set forth herein.
5. It is understood that the Respondents deny any violation of law, and that this Agreement does not constitute an admission by the Respondents or evidence of a determination by the Department of any violation of the Act or any other law.
6. Respondents acknowledge that they have an affirmative duty not to discriminate under the Act and other Authorities.
7. This Agreement, after it has been approved by the FHEO Regional Director, or his or her designee, is binding upon Respondents, their employees, heirs, successors and assigns and all others in active concert with them in the ownership or operation of Summercreek Place.
8. It is understood that, pursuant to Section 810(b)(4) of the Act, upon approval of this Agreement by the FHEO Regional Director or his or her designee, it is a public document.
9. This Agreement does not in any way limit or restrict the Department's authority to investigate any other complaint involving Respondents made pursuant to the Fair Housing Act, or any other complaint within the Department's jurisdiction.
10. No amendments to, modifications of, or waiver of any provision of this Agreement shall be effective unless all the following conditions are met: (a) all signatories or their successors to the Agreement are notified in advance and agree to the proposed amendment, modification, or waiver; (b) the amendment, modification, or waiver is in writing; and (c) the amendment, modification, or waiver is approved and signed by the Regional Director, Office of Fair Housing and Equal Opportunity, Region IX. Any such amendment, modification, waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

11. The parties agree that, in the interest of speedily concluding this matter, this Agreement may be executed by the parties' signatures of consent on separate pages. The separate signed pages will be attached to the body of the Agreement to constitute one document. To avoid delay, the parties agree that signature pages received via facsimile will be considered official provided that the original copy of the signature page is forwarded to the Department immediately upon signing of the Agreement or within ten (10) days from the date of the Agreement. Both the original and faxed signature pages will be retained in the official case file.
12. In exchange for the compliance with the provisions of this Agreement, the Complainant hereby forever waives, releases, and covenants not to sue the Respondents, their heirs, executors, assigns, agents, employees and attorneys with regard to any and all claims, damages and injuries of whatever nature whether presently known or unknown, arising out of the subject matter of HUD case number 09-06-1576-8 or which could have been filed in any action or suit arising from said subject matter.
13. In exchange for the compliance with the provisions of this Agreement, the Respondents hereby forever waives, releases, and covenants not to sue the Department or Complainant, its heirs, executors, assigns, agents, employees and attorneys with regard to any and all claims, damages and injuries of whatever nature whether presently known or unknown, arising out of the subject matter of HUD case number 09-06-1576-8 or which could have been filed in any action or suit arising from said subject matter.

F. Non-Retaliation

14. Respondents acknowledge that it is unlawful to retaliate against any person because that person has made a complaint, testified, assisted or participated in any manner in a proceeding under the Act and other Authorities. Respondents further acknowledge that any subsequent retaliation or discrimination constitutes both a material breach of this Agreement, and a statutory violation of the Act.

G. Relief for Complainant

15. Respondents agree to take the following action, and as set forth in this Agreement, will provide the Department with written certification that this requirement has been met:

16. Respondents agree to tender the amount of \$3,500.00 (THREE THOUSAND FIVE HUNDRED and no/100 DOLLARS) to the Complainant as a full and final settlement of the subject complaint. Said payment is to be made in the form of a cashier's check payable to Sharon Swafford and mailed directly to: Sharon Swafford, 1638 Myrtle Ave., Eureka, CA 95501 within ten (10) days of the effective date of this Agreement.
17. A copy of the check shall be forwarded to the U.S. Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, Attention: Conciliation Review, 600 Harrison Street 3rd Floor, San Francisco, CA 94107 within ten (10) days of the effective date of this Agreement.

H. Relief in the Public Interest

18. Respondents acknowledge that the Fair Housing Act makes it unlawful to discriminate against any person in the terms, conditions, or privileges of sales or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a handicap of that person; a person residing in or intending to reside in that dwelling after it is sold, rented, or made available, or any person associated with that person.
19. Respondents acknowledge that compliance under the Act includes designing and constructing covered multifamily dwellings in such a manner that (i) the public and common use portions are readily accessible to and usable by handicapped persons; (ii) all doors designed to allow passage into and within the premises are sufficiently wide to allow passage by handicapped persons in wheelchairs; (iii) the dwellings have the following features of adaptive design: an accessible route into and through the dwelling; light switches, electrical outlets, thermostats, and other environmental controls in accessible locations; reinforcements in bathroom walls to allow later installation of grab bars; and usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.
20. Respondents agree that Colleen Cook on behalf of Infinity Management will attend Fair Housing training in Spokane, WA, on September 26, 2007. Respondents Ron Tuning of The Pacific Companies and Ray Crowder (architect for The Pacific Companies) will attend Fair Housing training provided by a fair housing agency in Idaho at the next available time that such training is offered. Respondents shall pay for any cost of the training course.

21. Respondents shall forward to the Department evidence of the successful completion of the training, in the form of a Certificate or a letter from the entity conducting the training that includes the employee's name, title and date of completed training and the name of the agency that provided the training, within ten (10) days after the completion of the training, as evidence of compliance.
22. Within 30 days of the effective date of this Agreement, Respondents agree to communicate the provisions of the Agreement to all employees and agents who have any responsibilities or duties related to the provisions of this Agreement, and to provide the Department with certification that this requirement has been met.

I. RETROFITTING

23. Within 180 days of the effective date of this Agreement, Respondents agree to provide the following accessibility modifications to the public and common use areas of the subject property in compliance with the design and construction guidelines of the Fair Housing Act, 42 U.S.C. §3604(f)(2), (3)(c):
24. Accessible and Usable Public and Common Use Areas:
 - a. Mailboxes - Corrective Action: Assign mailboxes located near the lower half of the mailbox kiosk to disabled tenants as needed.
 - b. Maneuvering Space in Fitness Area – Corrective Action: Relocate or eliminate equipment, as needed in the exercise areas to provide an accessible route to the remaining equipments.
 - c. Laundry room - Corrective Action: Installed a ramp to provide an accessible route in the amount of \$3,800. Installed a front-load washer in the amount of \$980.98.
25. Accessible Building Entrance on an Accessible Route:
 - a. Ground floor units - Corrective Action: Install ramps to provide an accessible route to the following four ground floor dwelling units at the property: Building 1630 units #1, #2, #3, and #4. The estimated cost is \$16,409.

26. Dwelling Unit Interiors:

a. Usable Kitchens and Bathrooms – Corrective Action: Install lever-operated or push-type faucet mechanisms in Building 1630 units #1, #2, #3, and #4. The estimated cost is \$720.

b. Reinforcement for Grab Bars - Install grab bars when needed using the "WingIt" grab bar fastening system (if it is determined that backing was not provided at the adaptable units).

27. Respondents Eureka Humboldt Associates and the Pacific Companies further agree that after the completion of said modifications, such Respondents will provide the Department within thirty (30) days written certification that to their knowledge the public and common use areas and the four (4) dwelling units are in compliance with the Fair Housing Act.

J. Monitoring

28. Complainant and Respondents agree that the Department shall monitor compliance with the terms and conditions specified in this Agreement. As part of such monitoring, the Department may inspect Respondent's property identified in Section A of this Agreement, interview witnesses and copy pertinent records of the Respondents. Respondents agree to provide its full cooperation in any monitoring review undertaken by HUD to ensure compliance with this Agreement.

K. Reporting and Recordkeeping

29. All required certifications and documentations of compliance with the terms of this Agreement shall be submitted to:

U.S. Department of Housing and Urban Development
Fair Housing Enforcement Center
ATTENTION: CONCILIATION REVIEW
600 Harrison Street, Third Floor
San Francisco, CA 94107-1387

L. Consequences of Breach

30. The parties understand that if the Department has reasonable cause to

Conciliation Agreement
Swafford v. Infinity Management/Eureka Humboldt Associates, et al.
HUD Case No.: 09-06-1576-8

believe that the Respondents have breached this Agreement, the Department shall refer the matter to the Attorney General of the United States, to commence a civil action in the appropriate U.S. District court, pursuant to 472 U.S.C. 3610(c).

SIGNATURE PAGE

These signatures attest to the approval and acceptance of this Conciliation Agreement.

Sharon Swafford
Complainant

Date

Russ Gibler
Infinity Management, Inc.
Respondent

Date

Caleb Roope
The Pacific Companies
Respondent

Date

Frederick Brave
Respondent

Date

Danco Builders
Respondent

Date

SIGNATURE PAGE

These signatures attest to the approval and acceptance of this Conciliation Agreement.

Eureka Humboldt Associates
By: Daniel J. Johnson, Managing Member
Johnson & Johnson Investments, LLC
Respondent
Date

Eureka Humboldt Associates
By: Caleb J. Roope, Managing Member
Roope, LLC
Respondent
Date

Eureka Humboldt Associates
By: Christina Alley, CEO
Central Valley Coalition for Affordable Housing
Respondent
Date

Jeanette Hastings, Site Manager
Infinity Management, Inc.
Respondent
Date

SIGNATURE PAGE

These signatures attest to the approval and acceptance of this Conciliation Agreement.

RECOMMEND APPROVAL OF THIS AGREEMENT

Janice M. McConico Date
Equal Opportunity Specialist
Office of Fair Housing and Equal Opportunity (FHEO)

Jesse Webster Date
Chief, Enforcement Branch
San Francisco Program Center
Office of Fair Housing and Equal Opportunity (FHEO)

Anné Quesada Date
Director
San Francisco Program Center
Office of Fair Housing and Equal Opportunity (FHEO)

APPROVED ON BEHALF OF THE SECRETARY

Charles E. Hauptman Date
Regional Director
Office of Fair Housing and Equal Opportunity (FHEO)