

To



CONCILIATION AGREEMENT

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

and

Redacted Name

Complainant

and

**Hawaiiana Management Company, LTD.
Evgenia ("Jane") Chaney
4370 Kukui Grove Street, Suite 208
Lihue, Hawaii 96766**

**Tradewinds Realty, LLC.
Teresa A. Daher
P.O. Box 1267
Lawai, HI 96765**

Respondents

Effective Date of Agreement:

Expiration Date of Agreement:

HUD Case No. 09-18-4222-8
Date Filed: August 20, 2018
Date Reactivated: October 17, 2019

A. PARTIES

Complainant: **Redacted Name** ("Complainant")

Respondents: Hawaiiana Management Company, LTD.; Evgenia ("Jane") Chaney; Tradewinds Realty, LLC.; and Teresa A. Daher (hereinafter collectively the "settling Respondents").

Statement of Facts: On or about August 20, 2018, Complainant filed a Complaint with the Hawaii Civil Rights Commission ("HCRC") alleging that he was injured by the discriminatory acts of the Respondents Hawaiiana Management Company, LTD.; Evgenia ("Jane") Chaney; Tradewinds Realty, LLC.; Teresa A. Daher, and the Association of Apartment Owners of Koloa Garden Apartments. On August 12, 2019, HCRC issued a no reasonable cause determination. On October 17, 2019, the Complaint was reactivated by the United States Department of Housing & Urban Development ("the Department" or "HUD").

Complainant alleged that Respondents violated Sections 804(a), 804(b), 804(f), and 804(f)(3)(B) of Title VIII of the Civil Rights Act of 1968 as amended by the Fair Housing Act of 1988 (the "Fair Housing Act"), when the Respondents allegedly failed to make reasonable accommodations, constructively terminated his tenancy, and imposed unequal terms and conditions of residency.

Respondents deny discriminating against Complainant and contend that they made good faith efforts to interact and engage with and accommodate Complainant in compliance with the Fair Housing Act.

Complainant and the settling Respondents having been named in and served with copies of said Complaint and the Department having undertaken an investigation of said Complaint, herein agree that the allegations be conciliated (settled) under the following terms and conditions of this Conciliation Agreement ("Agreement"). The allegations initially made against the Association of Apartment Owners of Koloa Gardens Apartments are hereby withdrawn by Complainant on the basis of the terms and conditions reached with the settling Respondents that are contained within this Agreement.

B. TERM OF AGREEMENT

This Agreement shall govern the conduct of the parties to it for a one (1) year period from the effective date of the Agreement, unless an extension is necessary to complete the actions mandated by the Agreement.

C. EFFECTIVE DATE

1. The parties expressly agree that this Agreement constitutes neither a binding

contract under state or federal law, nor an Agreement pursuant to the Fair Housing Act, unless and until such time as it is approved by the Department, through the Fair Housing and Equal Opportunity (“FHEO”) Regional Director or her designee.

2. The Agreement shall become effective on the date on which it is approved by the Department FHEO Regional Director or her designee.

D. GENERAL PROVISIONS

3. The parties acknowledge that this Agreement is a voluntary and full settlement of the dispute set forth within the 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.

4. It is understood that Respondents deny any violation of law and that this Agreement does not constitute an admission by Respondents or evidence of a determination by the Department of any violation of the Fair Housing Act or any other law.

5. The parties agree that, in the interest of speedily concluding this matter, this Agreement may be executed by the parties’ signatures on separate pages. The separate signed pages will be attached to the body of the Agreement to constitute one document.

6. This Agreement, once effective, is binding upon the Department, Complainant and their successors and assigns, and the settling Respondents, their employees, heirs, successors and assigns.

7. Pursuant to Section 810(b) (4) of the Fair Housing Act, this Agreement shall become a public document. The Department, however, will hold confidential all information of a personal or financial nature concerning parties to this Agreement that is not contained in the body of the Agreement.

8. 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.

9. No amendment to, modification of, or waiver of any provision of this Agreement shall be effective unless all the following conditions are met: (a) all signatories to the Agreement are notified in advance of 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 FHEO Regional Director. Any such amendment, modification, waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

E. MUTUAL RELEASE

10. In consideration of the execution of this Agreement and the settlement payment set forth below, Complainant hereby forever waives, releases, and covenants not to sue the Department, the Association of Apartment Owners of Koloa Gardens Apartments, or the settling Respondents or 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 09-18-4222-8 (Title VIII) or which could have been filed in any action or suit arising from said subject matter.

11. In exchange for the compliance with the provisions of the Agreement, the settling Respondents hereby forever waive, release, and covenant not to sue the Department or Complainant, their heirs, executors, assigns, agents, employees, or 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 09-18-4222-8 (Title VIII), or which could have been filed in any action or suit arising from said subject matter.

12. This release does not apply to any rights arising from any party's failure to comply with the terms of this Agreement or to other complaints or matters of compliance which may be pending with the Department.

F. NON-RETALIATION

13. The settling Respondents acknowledge that they have an affirmative duty not to discriminate under the Fair Housing Act and other authorities, and 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 Fair Housing Act or other authorities. The settling Respondents further acknowledge that any subsequent retaliation or discrimination constitutes both a material breach of this Agreement, and a statutory violation of the Fair Housing Act.

G. RELIEF for COMPLAINANT

14. Within thirty (30) days of the effective date of this Agreement, the settling Respondents agree to pay Complainant \$8,000 in full settlement of any and all claims that Complainant could bring arising out of the allegations underlying the investigation or presented in the Complaint.

15. Within thirty (30) days of the effective date, the settling Respondents will mail Complainants a draft check issued from the Great American Insurance Company in the amount of \$8,000 made payable to "**Redacted Name**." Said draft check shall be mailed to **Redacted Name** Goleta, California 93117.

16. The settling Respondents will provide a copy of the draft check to the Department within thirty (30) days of the effective date of this Agreement.

H. RELIEF IN THE PUBLIC INTEREST

17. Respondent Daher, will attend the next free Fair Housing training for Housing Providers presented by the U.S. Department of Housing and Urban Development and the Hawaii Civil Rights Commission scheduled to take place in April 2021. Respondent Daher shall register for this training with the Hawaii Civil Rights Commission (telephone number: (808) 586-8636) upon the signing of this Agreement. Within fourteen (14) days of her completion of said training Respondent Daher shall submit to the Department written confirmation that this provision has been complied with.

18. Within sixty (60) days of the effective date of this Agreement Respondent Hawaiiiana Property Management shall adopt and follow the Non-Discrimination in Housing Policy attached as Exhibit A and shall submit to the Department written confirmation that this provision has been complied with.

19. Within sixty (60) days of the effective date of this Agreement Respondent Tradewinds shall submit to the Department for review its Non-Discrimination Policy for Housing. Within thirty (30) days of receiving and incorporating any feedback provided by the Department, Respondent Tradewinds will provide to the Department proof of implementation of the its reviewed, revised, or modified Non-Discrimination Policy for Housing.

20. The settling Respondents agree to comply with all of the provisions of the Fair Housing Act of 1968, as amended by the Fair Housing Amendments Act of 1988.

I. MONITORING

21. Complainant and the settling 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 interview witnesses and copy pertinent records of the settling Respondents.

22. The settling Respondents agree to provide full cooperation in any monitoring review undertaken by the Department to ensure compliance with this Agreement.

J. RECORDING AND RECORD KEEPING

23. This Agreement contains specific actions that are required of Complainant and the settling Respondents. These actions must be completed within the specified timeframes and the Department must verify satisfactory completion. It is understood that this Agreement may serve as the parties' sole notice of the required contents and deadlines. It is also understood that the terms set forth in this Agreement are contractual and not merely recital.

24. All required certifications and documentation for compliance with the terms of this Agreement shall be submitted to:

U.S. Department of Housing and Urban Development
Fair Housing and Equal Opportunity
ATTENTION: CONCILIATION REVIEW
Jelani M. Madaraka
Honolulu Field Office
Suite 1400
1132 Bishop Street
Honolulu, Hawaii 96813
Jelani.M.Madaraka@hud.gov

K. CONSEQUENCES OF BREACH

25. The parties understand that if the Department has reasonable cause to believe that the settling 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 42 U.S. C. §3610(c).

COMPLAINANT'S SIGNATURE PAGE

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

Redacted Name _____ Date
Complainant

Approved As to Form:

Caitlin Humphreys, Esq. _____ Date
Legal Aid Society of Hawaii
Fair Housing Enforcement Program
Attorneys for Complainant

RESPONDENTS' SIGNATURE PAGE

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

Hawaiiana Management Company, LTD Date
By:
Its:
Respondent

Evgenia ("Jane") Chaney Date
Respondent

Tradewinds Realty, LLC Date
By:
Its:
Respondent

Teresa A. Daher Date
Respondent

Approved As to Form:

Michelle J. Chapman, Esq. Date
Case, Lombardi & Pettit
Attorneys for Respondents

DEPARTMENT'S SIGNATURE PAGE

RECOMMEND APPROVAL OF THIS AGREEMENT:

Anné Quesada
Regional Director
Office of Fair Housing and Equal Opportunity

Date