



**UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**  
**OFFICE OF FAIR HOUSING AND EQUAL OPPORTUNITY**

**VOLUNTARY COMPLIANCE AND CONCILIATION AGREEMENT**

Between

**NAME REDACTED**  
**Complainant**

and

EAH Inc.  
Ola Ka Ilima Lofts, LLLP  
Ola Ka Ilima Artspace Lofts, LLC  
Artspace Projects, Inc.  
HKI Ilima LLC  
Hui Kauhale, Inc.  
Hawaii Community Development Authority  
**Respondents/Recipients**

Under

Title VIII of the Civil Rights Act of 1968, as amended (Fair Housing Act)  
Section 504 of the Rehabilitation Act of 1973, as amended (Section 504)  
Title II of the Americans with Disabilities Act of 1990, (ADA) as amended

FHEO CASE NUMBERS: **09-20-1225-8, 09-20-1225-4, and 09-20-1225-D**  
FHEO CASE NAME: **NAME REDACTED** v. EAH Inc., et al.

Approved by the FHEO Regional Director on behalf of the United States Department of  
Housing and Urban Development

Effective Date of Agreement:

Expiration Date of Agreement:

Voluntary Compliance and Conciliation Agreement  
09-20-1225-8, 09-20-1225-4, and 09-20-1225-D  
**NAME REDACTED** v. *EAH Inc., et al.*

## **A. PARTIES**

### **Complainant**

**NAME REDACTED**  
**ADDRESS REDACTED**  
Honolulu, HI 96814

### **Respondents/Recipients**

EAH, Inc.  
1001 Bishop Street, Suite 2880  
Honolulu, HI 96813

Ola Ka Ilima Lofts, LLLP  
1001 Bishop Street, Suite 2880  
Honolulu, HI 96813

Ola Ka Ilima Artspace Lofts, LLC  
250 Third Avenue North, Suite 400  
Minneapolis, Minnesota 55401

Artspace Projects, Inc.  
250 Third Avenue North, Suite 400  
Minneapolis, Minnesota 55401

HKI Ilima, LLC  
1001 Bishop Street, Suite 2880  
Honolulu, HI 96813

Hui Kauhale, Inc.  
1001 Bishop Street, Suite 2880  
Honolulu, HI 96813

### **Respondent/Recipient HCDA**

Hawaii Community Development Authority  
547 Queen Street  
Honolulu, HI 96813

## **Subject Property**

Ola Ka Ilima Artspace Lofts  
**ADDRESS REDACTED**  
Honolulu, HI 96814

## **B. STATEMENT OF FACTS**

The United States Department of Housing and Urban Development (the “Department” or “HUD”) pursuant to its law enforcement responsibilities under the authorities of Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Act of 1988 (the “Act”), HUD’s implementing regulations at 24 CFR Part 100, investigated a complaint filed on June 24, 2020, and subsequently amended on December 21, 2021, by **NAME REDACTED** (hereinafter “Complainant”) alleging that EAH Inc., Ola Ka Ilima Lofts, LLLP, Ola Ka Ilima Artspace Lofts, LLC, Artspace Projects, Inc., HKI Ilima, LLC, Hui Kauhale, Inc., (hereinafter collectively “Respondents/Recipients”) and the Hawaii Community Development Authority (hereinafter “Respondent/Recipient HCDA”) violated Subsections 804b or f, 804f3C, 804f3A, and 804f3B of the Act, when Respondents/Recipients failed to comply with the design and construction requirements of the Act and failed to provide her with reasonable modifications. Complainant’s allegations also constituted potential noncompliance with Section 504 of the Rehabilitation Act of 1973 (“Section 504”) and Title II of the Americans with Disabilities Act (“ADA”).

Complainant, Respondents/Recipients, and Respondent/Recipient HCDA having been named in and served with copies of said complaints and the Department having undertaken an investigation of said complaints, herein agree that the allegations made pursuant to Subsections 804b or f, 804f3C, 804f3A, and 804f3B of the Act be conciliated (settled) under the following terms and conditions of this Voluntary Compliance and Conciliation Agreement (hereinafter “Agreement”) in order to address those allegations and to ensure that Respondents/Recipients and Respondent/Recipient HCDA are in compliance with the regulations implementing the Act, Section 504, and the ADA.

## **C. TERM OF AGREEMENT**

This Agreement shall govern the conduct of the parties to it for a three (3) year period from the effective date of the Agreement, unless an extension is necessary to complete the actions mandated by the Agreement.

#### **D. EFFECTIVE DATE**

1. The parties expressly agree that this Agreement constitutes neither a binding contract under state or federal law, nor a Conciliation Agreement pursuant to the Fair Housing Act, or a Voluntary Compliance Agreement pursuant to Section 504 or Title II of the ADA unless and until such time as it is approved by the Department, through the Fair Housing and Equal Opportunity (“FHEO”) Regional Director or his designee.
2. The Agreement shall become effective on the date on which it is approved by the Department’s FHEO Regional Director or his designee. The deadlines set forth in this Agreement that generally hinge on the effective date of this Agreement are summarized in the VCCA Timetable attached hereto as **Exhibit A**.

#### **E. GENERAL PROVISIONS**

3. The parties acknowledge that this Agreement is a voluntary and full settlement of the dispute set forth within the complaints. 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. Respondents/Recipients and Respondent/Recipient HCDA acknowledge that they are Recipients of federal financial assistance from the Department and that funding from the HOME Investment Partnership Program went into the development of the subject property.
5. It is understood that Respondents/Recipients and Respondent/Recipient HCDA deny any violation of law and that this Agreement does not constitute an admission by Respondents/Recipients or Respondent/Recipient HCDA or evidence of a determination by the Department of any violation of the Fair Housing Act, Section 504, Title II of the ADA, or any other law.
6. 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. It is understood that Laura Hall, EAH, Inc. President and Chief Executive Officer, Greg Handberg, Ola Ka Ilima Lofts, LLLP, Ola Ka Ilima Artspace Lofts, LLC, and Artspace Projects, Inc., Authorized Signatory, and Marian Gushiken, HKI Ilima LLC, Authorized Signatory, and Hui Kauhale, Inc., President will sign this Agreement on behalf of Respondents/Recipients. It is understood that Deepak Neupane, Executive Director will sign this Agreement on behalf of Respondent/Recipient HCDA.

7. This Agreement, once effective, is binding upon the Department, Complainants and their successors and assigns, Respondents/Recipients, and Respondent/Recipient HCDA their employees, heirs, successors, assigns, and all others in active concert with Respondents/Recipients in the operation of the subject housing project.
8. 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.
9. This Agreement does not in any way limit or restrict the Department's authority to investigate any other complaint involving Respondents/Recipients or and Respondent/Recipient HCDA made pursuant to the Act, Section 504, Title II of the ADA, or any other complaint within the Department's jurisdiction.
10. 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.

## **F. MUTUAL RELEASES**

11. In consideration for the execution of this Agreement and the specific relief set forth below, Complainant hereby forever waives, releases, and covenants not to sue the Department, Respondents/Recipients, Respondent/Recipient HCDA 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 numbers 09-20-1225-8 (Title VIII), 09-20-1225-4 (Section 504), and 09-20-1225-D (ADA) or which could have been filed in any action or suit arising from said subject matter.
12. In exchange for the compliance with the provisions of this Agreement, Respondents/Recipients and Respondent/Recipient HCDA 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 numbers 09-20-1225-8 (Title VIII), 09-20-1225-4 (Section 504), and 09-20-1225-D (ADA) or which could have been filed in any action or suit arising from said subject matter.

13. These releases do 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.

#### **G. NON-RETALIATION**

14. Respondents/Recipients and Respondent/Recipient HCDA acknowledge that they have an affirmative duty not to discriminate under the Fair Housing Act, Section 504, Title II of the ADA, 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, Section 504, Title II of the ADA, or other authorities. Respondents/Recipients and Respondent/Recipient HCDA further acknowledge that any subsequent retaliation or discrimination constitutes both a material breach of this Agreement, and statutory violations of the Fair Housing Act, Section 504, and Title II of the ADA.

#### **H. RELIEF for COMPLAINANT**

15. Within thirty (30) days of the effective date of this Agreement, Respondents/Recipients agree to pay Complainant \$15,000 in full settlement of any and all claims that Complainants could bring arising out of the allegations underlying the investigation or presented in the complaint.

15.a Respondents/Recipients will mail a check in the amount of \$15,000 made payable to " Legal Aid Client Trust Account." Said check shall be mailed to Complainant's Representative, Dan O'Meara, at: Legal Aid Society of Hawaii, 924 Bethel Street, Honolulu HI 96813.

15.b Respondents/Recipients will provide a copy of said check to the Department within thirty (30) days of the effective date of this Agreement.

16.a Consistent with the requirements set forth below in Section 22 of this Agreement, Respondents/Recipients agree to have all of the accessibility features within the interior of Complainant's unit surveyed and inspected for compliance with the design and construction requirements of the Act, 24 C.F.R. § 100.205, the Uniform Federal Accessibility Standards ("UFAS"), 24 C.F.R. §§ 8.3 and 8.32, and where applicable, the 2010 Americans with Disabilities Act Standards for Accessible Design ("2010 ADA

Standards”), by an independent third-party Accessibility Assessment/Survey Consultant as described below in Section 18 of this Agreement.

16.b Consistent with the requirements set forth below in Sections 23, 24, 25 and as outlined and prioritized in **Exhibit B** of this Agreement, Respondents/Recipients agree to provide reasonable accommodations and reasonable modifications within the interior of Complainant’s unit that are necessary to afford her an equal opportunity to fully use and enjoy the unit. Respondents/Recipients agree to provide those requested modifications that do not constitute undue financial and administrative burdens, or fundamental alterations of Respondents/Recipients’ operations. However, if requested modifications do constitute such burdens or alterations Respondents/Recipients further agree to engage Complainant and her Representatives in an interactive process to negotiate, agree upon, and provide equally effective alternatives. Such reasonable modifications for Complainant shall be completed no later than one year from the effective date of this Agreement at Respondents/Recipients’ expense.

16.c Respondents/Recipients agree that Complainant’s rent shall not be increased due to the reasonable modifications made to their unit or for any other changes required to her unit for her full use and enjoyment due to her mobility impairments caused by her physical disabilities. Upon the ending of Complainant’s tenancy or upon her moving from or vacating the subject unit, Respondents/Recipients agree that Complainant shall not be charged any costs or additional fees for any restorations required to return the unit to its original condition.

16.d Within forty-five (45) days from the effective date of this Agreement, Respondents/Recipients shall address each request of Complainant’s for reasonable modifications as reflected in **Exhibit B** attached hereto, taking into consideration interim measures to resolve any such accessibility barriers that may exist within the common areas or Complainant’s unit. The parties agree that such interim measures pertaining to a specific request of Complainant may be deemed a final resolution of such request as agreed upon by the parties with the 45-day period. Any final resolution of a request under **Exhibit B** shall be by a written action plan agreement executed by the parties within the 45-day period. In the event that any reasonable accommodations and/or modifications that may, as determined by the consultant, impact or be impacted by the expanded consultant survey and timeline as set forth in Section 22, will be deferred pending completion of such survey and timeline. Otherwise, Respondents/Recipients and Complainant may resolve such request for reasonable accommodations and/or modification by a written action plan agreement executed by the parties and with oversight by the Department.

17. Respondents/Recipients will provide photographic proof of the reasonable modifications made to Complainant’s unit in compliance with Section 16 of this

Agreement to the Department within 30 days after the completion of said modifications.

## **I. RELIEF IN THE PUBLIC INTEREST**

### **A. Accessibility Assessment/Survey Consultant**

18. Within 15 days of the effective date of this Agreement, Respondents/Recipients shall submit to the Department the name, qualifications, and experience of the Accessibility Assessment/Survey Consultant, individual or firm, with experience with accessibility whom Respondents/Recipients propose to contract with to perform a Needs Assessment, Accessibility Assessment/Surveys, Self-Evaluation, and Transition Plan to meet the requirements of this Agreement. Respondents/Recipients shall negotiate and execute a contract for services with the approved Consultant within 30 days of the Department's approval of the Consultant.

19. Respondents/Recipients will submit for the Department's approval the timeline and survey instruments to be used by the Consultant within 30 days after execution of the contract with the Consultant; the Department will provide its approval, or comments, within fifteen (15) days after receipt. If the Department does not approve the Consultant's timeline and survey instrument Respondents/Recipients will have 15 days to submit a revised timeline and survey instrument for the Department's review.

### **B. Needs Assessment**

20. Within 180 days after the Department's approval of the Consultant's timeline and survey instrument, Respondents/Recipients shall have a Needs Assessment completed, pursuant to the requirements found at 24 CFR § 8.25 to assess the needs of current tenants living at the subject development and applicants on the waiting lists for accessible units; to ensure adequate distribution of accessible units as required by 24 CFR § 8.26; and to ensure proper and maximum utilization of accessible units as required by 24 CFR § 8.27. Respondents/Recipients shall provide the Department copies of the Needs Assessment 30 days after completion.

21. In the execution of said Needs Assessment and other requirements of this Agreement, Respondents/Recipients are reminded of their limited English proficient (LEP) obligations under Title VI of the Civil Rights Act of 1964 as clarified in the Federal Register on January 22, 2007 (72 FR 2731-2754). Both Respondents/Recipients and their sub-recipients (i.e., when federal funds pass through Respondents/Recipients to



sub-recipients) are required to take reasonable steps to ensure meaningful access of LEP persons to Respondents/Recipients' programs and activities.

### **C. Accessibility Surveys**

22. Within 240 days after Department's approval of the Consultant's timeline and survey instrument, Respondents/Recipients shall have Accessibility Surveys conducted of all its 84 adaptable units through a sampling of each distinct unit type to ensure compliance with the design and construction requirements of the Act, 24 C.F.R. § 100.205 and Accessibility Surveys of all its 12 designated accessible units to ensure compliance with the Uniform Federal Accessibility Standards ("UFAS"), 24 C.F.R. §§ 8.3 and 8.32, and where applicable, the 2010 Americans with Disabilities Act Standards for Accessible Design ("2010 ADA Standards"), identify physical barriers to persons with mobility impairments in the entire project and program. Respondents/Recipients shall address the removal of any non-compliant barriers and structural modifications found necessary by said Accessibility Surveys in Respondents/Recipients' Transition Plan, referenced below in Section 23 of this Agreement. Respondents/Recipients shall provide the Department copies of the Accessibility Surveys 30 days after completion.

### **D. Self-Evaluation and Transition Plan**

23. Within 270 days after the Department's approval of the Consultant's timeline and survey instrument, and after completion of the Needs Assessment referenced above in Section 20 of this Agreement, and completion of the Accessibility Surveys referenced above in Section 22 of this Agreement, Respondents/Recipients shall complete a Self-Evaluation and Transition Plan by: (1) Incorporating the findings from the Needs Assessment in Respondents/Recipients' Self-Evaluation; (2) Addressing the removal of any non-compliant features and physical barriers in designated accessible units, common areas and elements in Respondents/Recipients' subject development, including non-housing areas identified in the Accessibility Surveys, in Respondents/Recipients' Transition Plan, and which shall be completed by Respondents/Recipients' within three years; (3) Consulting affirmatively with Complainants, other current tenants, interested persons, individuals with disabilities and organizations representing individuals with disabilities; and (4) Including input from said persons and groups on the need for accessible units by bedroom sizes and by occupancy type in Respondents/Recipients' Transition Plan.

### **E. Methods of Achieving Compliance**

24. Respondents/Recipients' Transition Plan may indicate the various methods found at 24 CFR § 8.21 and 24 CFR § 8.24 or by other methods that Respondents/Recipients select to achieve compliance with the Act, Section 504, and the ADA in Respondents/Recipients' programs and activities. Respondents/Recipients are not required to make structural changes in existing projects and developments where other methods are effective in achieving compliance with the Act, Section 504, and ADA requirements and the requirements of this Agreement. In choosing among available methods for meeting said requirements and the requirements of this Agreement, Respondents/Recipients shall give priority to those methods that offer programs and activities to qualified individuals with disabilities in the most integrated setting appropriate.

25. Respondents/Recipients are reminded that any repositioning efforts undertaken (demolition, redevelopment, mixed finance or other programs, etc.) are required to meet the applicable accessibility standards along with meeting the accessibility and disability related needs for existing program participants (i.e., reasonable accommodations and modifications).

### **F. Publications and Notice**

26. Within 270 days after HUD approval of the Consultant's timeline and survey instrument, Respondents/Recipients shall provide the Department with copies of Respondents/Recipients' completed Self-Evaluation and Transition Plan, referenced above in Section 23 and 24 of this Agreement. Respondents/Recipients shall also make said completed Self-Evaluation and Transition Plan available to the public, as required by 24 CFR § 8.25 and § 8.51. During the three-year period when Respondents/Recipients are removing any non-compliant physical barriers in designated accessible units, common areas and elements in the project and program, including non-housing areas in the project, Respondents/Recipients shall provide the Department with quarterly reports outlining such activity.

### **G. The Fair Housing Aloha Accessibility Assistance Fund**

27. Respondents/Recipients agree to deposit in an interest-bearing escrow account

the total sum of \$15,000 for the purpose of paying damages to persons who may have suffered barriers to accessibility allegedly in violations of the Act, Section 504, or the ADA regarding the lack of accessibility at the subject project and property or the denial of reasonable modifications ("Compensation Fund"). Respondents/Recipients shall provide written verification of the deposit to the Department within 30 days of the effective date of this Agreement. Any interest that accrues shall become part of the Compensation Fund and be utilized and disposed of as set forth herein. The Compensation Fund shall be maintained for a term of three hundred sixty-five (365) days from the effective date of this Agreement. Upon the expiration of the said term, any moneys remaining in the Compensation Fund, including interest accrued in the Compensation Fund, shall be placed by Respondents/Recipients into an Account to be utilized during the life of this Agreement to off-set Respondents/Recipients' costs of providing reasonable modifications, making retrofits, and/or making other accessibility improvements to the subject project and property. Respondents/Recipients will consult with and obtain the prior approval of the Department in the utilization of these funds. Upon the expiration of this Agreement, any amounts remaining in the Account shall be released to Respondents/Recipients, the Account shall be cancelled, and Respondents/Recipients shall have no further obligation under this Section G of the Agreement.

28. Respondents/Recipients shall mail, post and publish a Notice of the **Fair Housing Aloha Accessibility Assistance Fund** ("Notice"), attached as **Appendix A**, informing persons who may have suffered barriers to accessibility of the availability of the Compensation Funds. Within 30 days of the effective date of this Agreement, Respondents/Recipients shall mail this Notice to the current and prior tenants who reside in the designated accessible units at the subject project. Within 30 days of the effective date of this Agreement, Respondents/Recipients shall post this Notice on its website homepage through a link on such homepage, which link shall be conspicuously placed for ninety (90) days. This Notice shall (1) advise tenants of their right to file a claim for payment from the Compensation Fund ("Claim") with the Department if they believe Respondents/Recipients have caused barriers to accessibility against them in violation of the Act, Section 504, or the ADA based on disability, *i.e.*, based on the tenant's physical impairment that substantially limits one or more of his/her major life activities; (2) specify the deadline for submitting claims; and (3) explain what information claimants must provide to the Department.

29. Within 60 days of the effective date of this Agreement, Respondents/Recipients shall provide the Department certification or proof that it has sent the Notice to current and prior tenants who reside or previously resided in the designated accessible units at the subject project and posted the Notice on its website.

30. Applicants shall submit claims within 90 days of their receipt of the Notice

pursuant to Section 28 of this Agreement, explaining why they believe they may have been injured by Respondents'/Recipients' actions concerning the applicant's actual disability.

31. For each claim filed by an applicant, the Department shall determine whether it is meritorious and, if it is, the damages, both economic and non-economic, to be awarded to the claimant from the Compensation Fund ("Award"). Respondents'/Recipients' payments of claims to individual person subjected to barriers of accessibility shall be limited to a maximum full Award of \$2,500.

32. The Department may request, and Respondents/Recipients shall supply within 10 days of such request, any information Respondents/Recipients have within their possession or control that the Department may need to process claims and determine awards.

33. Within 150 days of Respondents/Recipients issuing and publishing the Notice on its website, the Department shall provide to Respondents/Recipients a list of Claims it has received and, for those claims the Department believes have merit, the basis of the Department's determination, and the amount of Award to be paid from the Compensation Fund for each such Claim. Respondents/Recipients shall have 30 days in which to review the recommended Awards and provide the Department any objections it may have, which the Department shall consider in good faith and shall modify the Awards if/as the Department deems appropriate. The Department's final determination of Awards shall be submitted to Respondents/Recipients within 30 days of receipt of Respondents'/Recipients' objections, if any.

34. The Department may assign to a third-party administrator any or all tasks associated with the claims process as it deems appropriate, including, without limitation, the receipt of claims, the determination as to whether claims are meritorious, the determination of the amount of any corresponding Award, any request for information from Respondents/Recipients needed to determine the merit of claims and/or the amount of Awards, the transmittal of a list of claims and Awards to Respondents/Recipients, the receipt and consideration of any objections to the Awards which Respondents/Recipients may submit, and any modification of the Awards that may be deemed appropriate in response to Respondents'/Recipients' objections.

35. The payment of Awards from the Compensation Fund shall be subject to the following conditions: (a) no Award shall be paid from the Compensation Fund until the Recipient of the Award has provided Respondents/Recipients with a written release, as set forth in **Appendix B**, of all claims, legal or equitable, that the Award Recipient might have against Respondents/Recipients and other released person(s) and entities regarding the allegations asserted in the claim ("Release"); (b) no person shall be

eligible for payment of an Award from the Compensation Fund with respect to any claim if such person has previously received compensation in response to any claim of discrimination with respect to lack of accessibility at the subject property or denial of reasonable modifications and has executed a release in exchange for such compensation; and (c) the total amount of Awards paid by Respondents/Recipients collectively shall not exceed the amount of funds within the Compensation Fund, including accrued interest.

36. Respondents/Recipients shall, no later than ten (10) days after receiving notice of an Award, notify by letter each Award Recipient. The form of the letter shall be subject to the review and approval of the Department. At a minimum, the letter shall state that the identified person is eligible for an Award from the Compensation Fund in the amount indicated, provided he or she executes and returns to Respondents/Recipients a copy of the Release that Respondents/Recipients shall provide along with an addressed and postage-paid return envelope. Each letter shall identify the alleged incidents associated with the Award. If Respondents/Recipients receive any letter returned with a forwarding address, it shall promptly re-send the letter to the forwarding address. Within 10 days after sending the letters, Respondents/Recipients shall provide the Department a list of the name and address of each Claimant to whom Respondents/Recipients sent a letter and the date each letter was sent.

37. Within ten (10) days of receiving a Release, Respondents/Recipients shall mail the Claimant a check for the corresponding Award. Respondents/Recipients shall set forth reasonable deadlines for requirements of return of Releases, and for the timely deposit of checks, subject to approval by the Department, so that Awards are distributed, and Award checks are presented for payment prior to the date that is one year from the date Respondents/Recipients send a Release to a Claimant. Respondents/Recipients shall provide the Department a full accounting, including copies, of all Releases received, Awards sent, and letters to which no response was received or that were returned as undeliverable.

#### **H. Non-Discrimination Acknowledgments**

38. Respondents/Recipients and Respondent/Recipient HCDA acknowledge that the Act, Section 504 and Title II of the ADA make it unlawful to refuse to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford a person with a disability equal opportunity to use and enjoy housing, programs, services, or activities. Respondents/Recipients and Respondent/Recipient HCDA further acknowledge that they have an obligation to provide prompt responses to reasonable accommodation requests and that an undue

delay in responding may be deemed a failure to provide a reasonable accommodation. Respondents/Recipients and Respondent/Recipient HCDA agree to make reasonable accommodations in rules, policies, practices, or services and to respond to such requests within a reasonable time and without undue delay. Respondents/Recipients and Respondent/Recipient HCDA agree to process any and all reasonable accommodation requests in a reasonably timely manner and in a way that complies with the Act, Section 504 and Title II of the ADA.

39. Respondents/Recipients and Respondent/Recipient HCDA acknowledge that the Act makes it unlawful to discriminate on the basis of disability, color, national origin, religion, sex, familial status, and race and agree to refrain from discriminating against any person on the basis of disability, national origin, color, race, sex, religion, and familial status as protected under federal law.

40. Respondents/Recipients and Respondent/Recipient HCDA acknowledge that the Act makes it unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of any right granted or protected by Section 803, 804, 805, or 806 of the Act, and further agree to refrain from engaging in such activities.

41. Respondents/Recipients and Respondent/Recipient HCDA acknowledge that Section 504 provides that no otherwise qualified individual with handicaps shall, solely by reason of his or her handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. Respondents/Recipients and Respondent/Recipient HCDA acknowledge that they receive federal financial assistance and are obligated to abide by and agree to comply with all of the provisions of Section 504, and implementing regulations at 24 CFR Part 8 et seq. including, but not limited to:

- a. 24 CFR Part 8, Section 8.6(a)(1)(2) – Communications
  - The Regulation requires that Respondents/Recipients and Respondent/Recipient HCDA take appropriate steps to ensure effective communication with applicants, beneficiaries, and members of the public to include telecommunication devices for deaf persons (TDD's) or equally effective communication systems.
- b. 24 CFR Part 8, Section 8.53(a) - Designation of responsible employee (Section 504 Coordinator).
  - The Regulation requires that if Respondents/Recipients and Respondent/Recipient HCDA employ 15 or more persons designate at least one (1) person to coordinate its efforts to comply with this Part.

- c. 24 CFR Part 8, Section 8.53(b) - Adoption of grievance procedures.
  - The Regulation requires that if Respondents/Recipients and Respondent/Recipient HCDA employ 15 or more persons adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by this Part.
- d. 24 CFR Part 8, Section 8.54(a) - Notice.
  - The Regulation provides that if Respondents/Recipients and Respondent/Recipient HCDA employ 15 or more persons shall take appropriate initial and continuing steps to notify participants, beneficiaries, applicants, and employees that it does not discriminate on the basis of handicap (disability).

42. Respondents/Recipients and Respondent/Recipient HCDA further acknowledge that Title II of the ADA protects qualified individuals with disabilities from discrimination on the basis of disability in services, programs, and activities provided by state and local government entities, and extends the prohibition on discrimination established by Section 504 to all activities of state and local governments regardless of whether these entities receive federal financial assistance. Respondent/Recipient HCDA is a State of Hawaii's Development Agency. Respondent/Recipient HCDA acknowledges that it is obligated to abide by and agrees to comply with the provisions of Title II of the ADA:

- a. 28 CFR Part 35, Section 35.106 - Notice.
  - The ADA requires that state and local government entities with fifty or more persons take appropriate initial and continuing steps to notify participants, beneficiaries, applicants, and employees, including those with impaired vision or hearing, and unions or professional organizations holding collective bargaining or professional agreements with Respondent/Recipient HCDA that it does not discriminate on the basis of handicap (disability) in violation of this part.
- b. 28 CFR Part 35, Section 35.107(a) - Designation of responsible employee.
  - The ADA requires state and local government entities with fifty or more persons designate at least one person to ensure compliance with the provisions of Title II of the ADA.
- c. 28 CFR Part 35, Section 35.107(b) - Adoption of grievance procedures.
  - The ADA requires state and local government entities with fifty or more

persons adopt a grievance procedure that provides prompt and equitable resolution of complaints alleging any action prohibited by the provisions of Title II of the ADA.

d. 28 CFR Part 35, Section 35.161 - Telecommunication devices for the deaf.

- The regulations require that state and local government entities take appropriate steps to ensure effective communication with applicants, beneficiaries, and members of the public to include telecommunication devices for deaf persons (TDD's) or equally effective communication systems.

## **J. MONITORING**

43. Complainants and Respondents/Recipients and Respondent/Recipient HCDA 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 Respondents/Recipients and Respondent/Recipient HCDA.

44. Respondents/Recipients and Respondent/Recipient HCDA agree to provide full cooperation in any monitoring review undertaken by the Department to ensure compliance with this Agreement.

## **K. RECORDING AND RECORD KEEPING**

45. This Agreement contains specific actions that are required of Complainants, Respondents/Recipients, and Respondent/Recipient HCDA. 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.

46. 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  
Office of Fair Housing and Equal Opportunity  
ATTENTION: CONCILIATION REVIEW  
Jelani M. Madaraka, Conciliator  
HUD Honolulu Field Office



Suite 1400  
1132 Bishop Street  
Honolulu, Hawaii 96813  
[Jelani.M.Madaraka@hud.gov](mailto:Jelani.M.Madaraka@hud.gov)

## **L. CONSEQUENCES OF BREACH**

47. The parties understand that if the Department has reasonable cause to believe that Respondents/Recipients or Respondent/Recipient HCDA 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).

48. The parties understand further that failure by Respondents/Recipients or Respondent/Recipient HCDA to carry out the terms of this Agreement may result in suspension or termination of, or refusal to grant or to continue federal financial assistance, or other actions authorized by law pursuant to the Act, Section 504, Title II of the ADA, or any other authorities within the Department's jurisdiction.

## **M. COUNTERPARTS**

49. The parties hereto agree that this instrument may be executed in counterparts, each of which shall be deemed an original, and said counterparts shall together constitute one and the same agreement, binding all of the parties hereto, notwithstanding all of the parties are not signatory to the original or the same counterparts. For all purposes, including, without limitation, recordation, filing, and delivery of this instrument, duplicate unexecuted and unacknowledged pages of the counterparts may be discarded and the remaining pages assembled as one document.

Voluntary Compliance and Conciliation Agreement  
09-20-1225-8, 09-20-1225-4, and 09-20-1225-D  
**NAME REDACTED** v. *EAH Inc., et al.*

**COMPLAINANT'S SIGNATURE PAGE**

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

**NAME REDACTED**

Complainant

\_\_\_\_\_  
Date

Approved As to Form:

\_\_\_\_\_  
Dan O'Meara, Esq.  
Attorney at Law  
Legal Aid Society of Hawaii  
Attorneys for Complainant

\_\_\_\_\_  
Date

**RESPONDENTS/RECIPIENTS' SIGNATURE PAGE**

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

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EAH Inc. (dba EAH Housing) Date  
By: Laura Hall  
Its: President and Chief Executive Officer  
Respondent/Recipient

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Ola Ka Ilima Lofts, LLLP Date  
By: Greg Handberg,  
Its: Authorized Signatory  
Respondents/Recipients

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Ola Ka Ilima Artspace Lofts, LLC Date  
By: Greg Handberg,  
Its: Authorized Signatory  
Respondents/Recipients

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Artspace Projects, Inc. Date  
By: Greg Handberg  
Its: Authorized Signatory  
Respondent/Recipient

Voluntary Compliance and Conciliation Agreement  
09-20-1225-8, 09-20-1225-4, and 09-20-1225-D  
**NAME REDACTED** v. EAH Inc., et al.

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HKI Ilima, LLC Date  
By: Marian Gushiken  
Its: Authorized Signatory  
Respondent/Recipient

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Hui Kauhale, Inc. Date  
By: Marian Gushiken  
Its: President  
Respondent/Recipient

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Hawaii Community Development Authority Date  
By: Deepak Neupane, P.E., AIA  
Its: Executive Director  
Respondent/Recipient Hawaii Community Development Authority

Approved As to Form:

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Lori K. K. Sunakoda, Esq. Date  
Deputy Attorney General  
Attorney for Respondent/Recipient Hawaii Community Development Authority

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Nathan T. K. Aipa, Esq. Date  
Attorney at Law  
Pitluck Kido & Aipa, LLP  
Attorney for Respondents/Recipients

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David W. H. Chee, Esq. Date  
Attorney at Law  
Attorney for Respondents/Recipients

Voluntary Compliance and Conciliation Agreement  
09-20-1225-8, 09-20-1225-4, and 09-20-1225-D  
**NAME REDACTED** v. *EAH Inc., et al.*

**DEPARTMENT'S SIGNATURE PAGE**

**RECOMMEND APPROVAL OF THIS AGREEMENT:**

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Kenneth J. Carroll  
Regional Director  
Office of Fair Housing and Equal Opportunity

Date