

UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

TITLE VIII and SECTION 504 OF THE REHABILITATION ACT OF 1973

CONCILIATION AGREEMENT/VOLUNTARY COMPLIANCE AGREEMENT

between

HOPE Fair Housing Center,



(Complainants)

and

Eden Management, LLC, Maria Drosos, Carleen Curalli, Kim Cross, Michael J. Hamblet, Jr.,
and Michael J. Hamblet, Sr.
(Respondents)

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

FHEO CASE NUMBERS: 05-14-0188-8/4; 05-14-0190-8/4; 05-13-1454-8; 05-13-1455-4

¹  is not a HUD complainant; however, she is one of the plaintiffs in the federal litigation (case number 13 C 7391) that is being resolved as to Respondents through this Conciliation Agreement. As such, she is also a signatory and beneficiary of this Conciliation Agreement and shall be deemed included in all references to "Complainants" throughout the Conciliation Agreement.

A. PARTIES AND SUBJECT PROPERTY

Complainants

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Representing Complainants:

Jennifer Soule
Soule, Bradtke & Lambert
533 S. Division Street, Suite B
Elmhurst, Illinois 60126

Susan Ann Silverstein
AARP Foundation Litigation
601 E. St. NW
Washington, DC 20049

Respondents

Maria Drosos
Eden Management LLC
d/b/a Eden Supportive Living
940 W. Gordon Terrace
Chicago, Illinois 60613

Carleen Curalli
311 Lincolnway Properties LLC
d/b/a Eden Fox Valley
311 S. Lincolnway Hwy
North Aurora, Illinois 60542

² See note 1.

Kim Cross
222 State St. Properties LLC
d/b/a Eden Champaign LLC
222 N. State St.
Champaign, Illinois 61820

Eden Management, LLC
940 W. Gordon Terrace
Chicago, IL 60613

Michael J. Hamblet, Sr.
1226 Grant Rd.
Northbrook, IL 61820

Michael J. Hamblet, Jr.
1404 N. LaSalle Street
Chicago, IL 60610

Representing Respondents:

Joel Rice
Fisher & Phillips, LLP
10 South Wacker Drive, Suite 3450
Chicago, Illinois 60606

Subject Properties

Eden Supportive Living
940 W. Gordon Terrace
Chicago, Illinois 60613

Eden Fox Valley
311 S. Lincolnway Hwy
North Aurora, Illinois 60652

Eden Champaign LLC
222 N. State Street
Champaign, Illinois 61820

B. STATEMENT OF FACTS

The complaints were filed on December 4, 2013 with the U.S. Department of Housing and Urban Development (the "Department" or "HUD") alleging that Complainants were injured by a policy of Respondents that discriminates on the basis of disability. Complainants allege

that Respondents violated Section 804(f) of the Fair Housing Act as amended in 1988, 42 U.S.C. Section 3601 *et seq.* (the "Act") and Section 504 of Rehabilitation Act of 1973 ("Section 504"). Also, on October 15, 2013, HOPE and ██████████ filed case number 13 C 7391 in the United States District Court for the Northern District of Illinois, Eastern Division. On September 3, 2014, ██████████ added her claims to that case.

Respondents contest the allegations of discrimination and admit no wrongdoing, but agree to settle the claims in the underlying action by entering into this Conciliation Agreement/Voluntary Compliance Agreement.

C. TERM OF AGREEMENT

1. Except as otherwise provided herein, this Conciliation Agreement/Voluntary Compliance Agreement (hereinafter "Agreement") shall govern the conduct of the parties to it for a period of two and a half (2.5) years from the effective date of the Agreement. HUD will conduct a review of compliance at the conclusion of said term and may extend the period for an additional six (6) months at its discretion.

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 or a Voluntary Compliance Agreement, unless and until such time as it is approved by HUD through the Fair Housing and Equal Opportunity ("FHEO") Regional Director, or his designee.
3. This Agreement shall become effective on the date on which it is approved by the Regional Director, FHEO Chicago Regional Office of the United States Department of Housing and Urban Development, or his designee.

E. GENERAL PROVISIONS

4. The parties acknowledge that this Agreement is a voluntary and full settlement of the disputed complaints. The parties affirm that they have read and fully understand the terms set forth herein. No party has been coerced, intimidated, threatened, or in any way forced to become a party to this Agreement.
5. Respondents acknowledge that they have an affirmative duty not to discriminate under the Act, 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 Act. Respondents maintain that they have acted lawfully at all times. Respondents further acknowledge that any proven subsequent retaliation or discrimination against Complainants may constitute both a material breach of this Agreement and a violation of the Act.
6. This Agreement, after it has been approved by the FHEO Regional Director, or his or her designee, is binding upon Complainants, their heirs, successors and assigns, and

Respondents, their employees, heirs, related successors and related assigns and all others in active concert with them in the ownership or operation of Eden Assisted Living facilities.

7. 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.
8. This Agreement does not in any way impact any authority the Department may have to investigate any other complaint involving Respondents made pursuant to the Fair Housing Act, or any other complaint within the Department's jurisdiction.
9. This Agreement does not impact HUD funding received by Respondents.
10. No amendment to, modification of, or waiver of any provisions of this Agreement shall be effective unless: (a) all signatories or their successors to the Agreement agree in writing to the 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.
11. The parties agree that the execution of this Agreement may be accomplished by separate execution of consents to this Agreement, the original executed signature pages to be attached to the body of the Agreement to constitute one document.
12. Complainants hereby forever waive, release, and covenant not to sue the Department or Respondents, or their respective heirs, executors, assigns, agents, employees and attorneys with regard to any and all claims, damages and injuries of whatever nature (including but not limited to attorneys' fees) whether presently known or unknown, arising out of the subject matter of HUD Case Numbers 05-14-0188-8/4; 05-14-0190-8/4; 05-13-1454-8, 05-13-1455-4, or which could have been filed in any action or suit arising from said subject matter.
13. Respondents hereby forever waive, release, and covenant not to sue the Department or Complainant and their successors, assigns, agents, officers, employees and attorneys with regard to any and all claims, damages and injuries of whatever nature (including but not limited to attorneys' fees) whether presently known or unknown, arising out of the subject matter of HUD Case Numbers 05-14-0188-8/4; 05-14-0190-8/4; 05-13-1454-8, 05-13-1455-4 or which could have been filed in any action or suit arising from said subject matter.
14. Complainants and their attorneys will not announce the settlement of this matter on their websites, except that AARP Foundation Litigation ("AFL") will maintain agreeable language on its website summarizing the case and its outcome, in the manner customarily maintained by AFL on its docket list.
15. Complainants and their attorneys will refrain from issuing press releases or making statements to the press concerning the settlement. Complainants will respond to all

- press inquiries with the statement that the matter has been amicably resolved, but will not otherwise comment.
16. Respondents will reasonably cooperate, to the extent applicable, with Complainants' litigation against the State Defendants, and will provide a statement in that regard, with wording to be negotiated.
 17. Complainants and Respondents (the "Parties") will jointly move for entry by the District Court of a Consent Decree no later than May 27, 2016. Plaintiffs will execute General Releases upon signing this Agreement, which are conditioned on entry of the Consent Decree.
 18. Pursuant to the Parties' Joint Motion and Consent Decree, claims against Eden Respondents in Case No. 13 C 7391 will be dismissed with prejudice. Complainants' claims against the State of Illinois Defendants will remain pending. The Court will retain jurisdiction concerning the Eden Respondents to enforce the terms of the Consent Decree. A draft Order will be submitted by the Parties along with the Consent Decree.
 19. Complainants' individual General Releases will be in agreed format and will be referred to in, but not attached to, the Consent Decree.

F. RELIEF FOR COMPLAINANTS

20. Respondents shall pay within thirty (30) days of the later of the following events: (a) the effective date of this Agreement; (b) the parties' joint submission of the Consent Decree (with accompanying exhibits) to the Court; and (c) execution of all the releases by Complainants. Respondents shall pay \$630,000 (six hundred and thirty thousand dollars) to Complainants, inclusive of all monetary relief and attorneys' fees and costs, payable to the client trust account of Soule, Bradtke & Lambert ("SBL") (per wiring instructions to be provided) to be distributed by SBL as detailed in the confidential Binding Term Sheet and individual releases.

G. RELIEF IN THE PUBLIC INTEREST

21. Respondents shall provide fair housing training to certain of their employees (to be agreed upon) whose jobs involve interaction with the public or potential applicants. Within thirty (30) days from the effective date of the Agreement, the Parties shall attempt to agree on a trainer. If, after three rounds of exchanging names of trainers, no agreement on a trainer is reached, HUD will identify a HUD-approved trainer. HOPE and AFL shall be provided with the training curriculum in advance and have a reasonable period of time to submit comments and suggestions to the trainer. Existing and new Respondents' employees (as defined above) shall receive three (3) hours of training the first year of the Agreement and one (1) hour annually for the duration of the monitoring period. Upon completion of each training session, Respondents shall provide certification of attendance to the Department via e-mail to: yana.karnaukhov@hud.gov.

22. Within sixty (60) days from the effective date of this Agreement, Respondents shall revise and submit to HUD for approval their Manual and Handbook in a manner consistent with this Agreement and the Consent Decree. The revisions will include all items in this Section G, herein, and corresponding attachments, including: an updated non-discrimination statement, a reasonable accommodation statement, the subjects of fair housing training for employees, policies on tours, initial inquiries, and assessment. The non-discrimination statement, reasonable accommodation policy and revisions of policies and procedures will be reasonably disseminated in an agreed manner set forth in the Consent Decree and provided to the Department via e-mail to: yana.karnaukhov@hud.gov for review and approval.
23. Within thirty (30) days from the effective date of this Agreement, Respondents shall review and revise additional policies, procedures and lease, if necessary, to be consistent with this Agreement and the Consent Decree. The Parties agree to work on appropriate language in substitution for the provision in the lease regarding eviction for "inappropriate behavior" at Respondents' sole discretion that preserves Respondents' ability to evict an individual for conduct that objectively threatens the safety and well-being of themselves or others. Eden will submit these revisions to HUD for approval within thirty (30) days. The Consent Decree shall contain agreed injunctive language affirming that applicants or residents at Respondents' properties will not be rejected based on diagnosis of mental illness, and that such criteria will not be communicated at any stage of the process to people making inquiries, applicants or residents.
24. The Consent Decree will contain injunctive language affirming that "telephone screens" will not be utilized by Respondents to screen out, reject or deter individuals with or suspected of having mental illnesses.
25. Respondents will keep a log or record of all informal inquiries, requests for application, or presentment of applications, and maintain such records for a minimum period of three (3) years. The format of this log will be agreed upon and a sample will be attached to the Consent Decree.
26. Respondents will provide notice of due process rights to all applicants, in a format to be agreed upon and attached to the Consent Decree.
27. Fact sheet(s) concerning Eden and its services for use in the inquiry and application stages shall be agreed and attached to the Consent Decree.
28. Respondents will not inquire about conditions or prescriptions at stages of the process relating to inquiry and application and Respondents will focus on objective criteria only. Respondents will abide by the following sequence of events concerning inquiries and applications: (1) Application; (2) DON qualified; (3) Resident screening; (4) Meeting to determine if needs met by Eden services, and to obtain objective information needed for compliance with State regulatory framework and the services that Respondents do and do not provide; (5) Approved (or rejected). This process will be based on objective criteria and documented. Prospective residents will be provided with a menu of Eden services and may be asked which are needed and how frequently. This menu of services will be attached to the Consent Decree.

29. Respondents may ask prospective residents whether they need any other services not listed and whether someone will be coming to provide such services. Respondents affirm they cannot unreasonably interfere with additional services. If specific additional services are required but are beyond services Respondents provide, the prospective resident will be given two (2) weeks to arrive at an alternative. Within sixty (60) days of entry of the Consent Decree, Complainants will compile a list of resources in the community that Respondents will hand out to prospective residents. If services the prospective resident needs are not provided by Respondents and the prospective resident cannot obtain the services from another source, Respondents shall fully document reasons for denial and proceed with denial and the due process/appeal process.
30. Within thirty (30) days from the effective date of this Agreement, Respondents shall adopt an agreed upon Modification and Clarification of the Stages of the Potential Resident Application Process and submit it to HUD for approval via e-mail to: yana.karnaukhov@hud.gov.
31. Within thirty (30) days from the effective date of this Agreement, Respondents shall revise the rental application consistent with the markup reviewed at the March 29, 2016 mediation, except that below the list of services provided/not provided a statement will be included as follows: "subject to licensing and regulation by the State of Illinois." A copy of the revised application will be attached to the Consent Decree.
32. Respondents agree that all applicants will be referred first for the DON screen after being given information about Eden and its services, and Eden will not make simultaneous inquiries into conditions or prescriptions. Respondents will abide by the stages of the process as outlined in the Consent Decree.
33. Respondents agree that they will not inquire into the existence of mental health or disability conditions or prescriptions during tours of the facility. An agreed protocol for handling initial inquiries and tours of Eden facilities will be attached to the Consent Decree.
34. Respondents agree not to inquire into medications during the initial application process and prior to the DON screen. After approval of the DON screen, Respondents agree to work with Complainants on a protocol that makes clear that information about medications is not to be used as a proxy to screen out those with mental illness, but that permits Respondents to obtain only such medical history information necessary to ensure that Respondents can operate safely and in compliance with State regulations.
35. Within thirty (30) days from the effective date of this Agreement, Respondents will amend their roommate policy to contain injunctive language affirming that residents may choose their own roommates and that persons with mental illnesses will not be rejected based on a presumption they are unsuitable to have a roommate. The modified policy will be attached to the Consent Decree.
36. Respondents will develop a protocol to apply objective admissions criteria (not subjective judgments based on medical diagnoses) to determine whether a prospective resident will be a good tenant. Respondents may check prior references and landlords.

Respondents will develop a protocol for assessing admission criteria (resident suitability), that will be attached to the Consent Decree.

37. Respondents affirm they will not and do not discriminate based on a record of disability. Within sixty (60) days from the effective date of this Agreement, Respondents will develop a protocol for identifying current conditions relating to drug and alcohol abuse that may give rise to exclusion. Respondents shall send the protocol to the Department for approval via e-mail to: yana.karnaukhov@hud.gov.
38. Within sixty (60) days from the effective date of this Agreement, Respondents will take reasonable steps to be outlined in the Consent Decree to identify individuals from November 2011 to the present likely to have been denied or deterred based on mental health diagnosis or condition. Respondents will send to the last known address of such individuals a letter in an agreed format inviting them to apply.
39. Within sixty (60) days from the effective date of this Agreement, Respondents will provide a letter to their top three (3) referral sources encouraging individuals to apply regardless of mental health status. Respondents will also include a statement of invitation to apply regardless of mental health status on their website.

H. MONITORING

40. The Department shall determine compliance with the terms of this Agreement. During the term of this Agreement, HUD may review compliance with this Agreement. As part of such review, and upon reasonable notice to Respondents, HUD may examine witnesses and review pertinent records of Respondents, as permitted by law. Respondents agree to provide their full cooperation in any monitoring review undertaken by HUD to ensure compliance with this Agreement.
41. Yana Karnaukhov, on behalf of the Department, will continue to work with the Parties on drafting the Consent Decree until it is submitted upon joint motion and entered in the Northern District of Illinois. Failure by the Parties to engage in this process in good faith will be deemed a material breach of this Agreement.
42. HOPE and AFL shall monitor compliance with the terms of the Consent Decree and this Agreement, at the cost of Respondents, subject to a \$3,000 (three thousand dollars) per year cap, except that HUD may lift the cap upon good cause showing by HOPE, after opportunity for Respondents to be heard.
43. The parties shall agree to meet and confer about any disputes under the Consent Decree and this Agreement prior to raising disputes to the attention of HUD. The Parties reserve their right to move the Court for enforcement of terms of the Consent Decree.
44. Respondents shall document all activities covered under the Consent Decree and this Agreement in a format to be agreed upon with Complainants.

- 45. Respondents shall provide quarterly reports of activities under the Consent Decree and this Agreement. A sample format will be attached to the Consent Decree, and due dates will be specified in the Consent Decree as well.
- 46. Respondents shall retain an agreed list of records for the period of two and half (2.5) or three (3) years, based on HUD's determination at the end of two and a half (2.5) years.

I. REPORTING AND RECORDKEEPING

47. All required certifications and documentation of compliance must be submitted to:

U.S. Department of Housing & Urban Development
 Maurice McGough, Director
 Region V, Office of Fair Housing and Equal Opportunity
 77 W. Jackson Blvd. Rm 2101
 Chicago, IL 60604

J. CONSEQUENCES OF BREACH

- 48. If ever the Department has reasonable cause to believe that the Respondents have breached this Agreement, the Department shall provide written notice of such potential breach and provide a thirty (30) day cure period to Respondents. If Respondents fail to cure any breach within thirty (30) days of receipt of written notice from the Department, then the matter shall be referred to the Attorney General of the United States, to commence a civil action in the appropriate U. S. District Court, pursuant to §§ 810(c) and 814(b)(2) of the Act.
- 49. Failure to carry out the terms of this Agreement may result in the suspension or termination of, or refusal to grant or to continue federal financial assistance, or other actions authorized by law.

Case Names: HOPE v. Eden, et. al; [REDACTED] v. Eden, et. al.; [REDACTED] Eden, et. al

Case Numbers: 05-14-0188-8/4; 05-14-0190-8/4; 05-14-1454-8/4


K. SIGNATURE PAGE

 [COMPLAINANT HOPE]


 Date

 [COMPLAINANT [REDACTED]]

 Date

[COMPLAINANT 

Date



Date

[RESPONDENTS Eden, et. al.]

Date

L. APPROVAL

[FHEO REGIONAL DIRECTOR REGION VI]

Date

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K. SIGNATURE PAGE

Anne V. Hoffertling
[COMPLAINANT HOPE]

4/27/16
Date

[COMPLAINANT [REDACTED]]

Date

[COMPLAINANT [REDACTED]]

Date

[REDACTED]

Date

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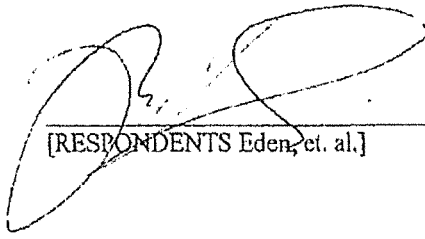
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K. SIGNATURE PAGE

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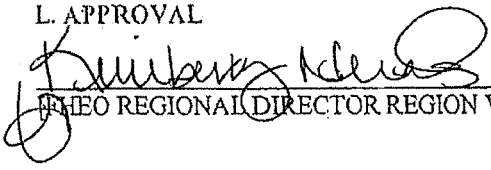
Date
4-29-16
Date
4/28/16
Date
4/27/2016
Date



[RESPONDENTS Eden, et. al.]

4/21/16
Date

L. APPROVAL



[CEO REGIONAL DIRECTOR REGION V]

4/29/16
Date

dl