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UNITED STATES OF AMERICA
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF ADMINISTRATIVE LAW JUDGES

The Secretary, United States Department of
Housing and Urban Development, on behalf
of John Demizzo,

Charging Party,

v.

Wesley K. Flowers, AIMCO Residential
Group L.P., Security Pacific Properties

Respondents.

HUDALJ 09-99-0004-8

ORDER ISSUING CONSENT ORDER

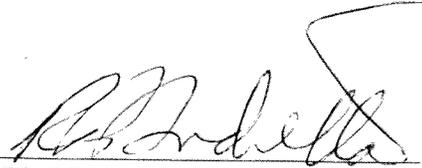
On January 22, 2001, I issued the Initial Decision And Order in this case. It became the Final Decision And Order of the Secretary of HUD on February 21, 2001. On March 19, 2001, Respondents appealed the Decision to the United States Court Of Appeals For The Ninth Circuit pursuant to 42 U.S.C. § 3612(i).

On September 4, 2001, an undated Amended Order of the United States District Court For The Ninth Circuit was received in this office. The Order remands the above-captioned case to the jurisdiction of this forum for the purpose of considering an attached Consent Order Amending The Final Decision And Order which had been filed in this office by the parties on August 9, 2001, along with a Motion For Issuance Of Consent Order Amending The Final Decision And Order.

Accordingly, pursuant to the request of the parties and after due consideration of the Consent Order, the Motion is **GRANTED**, and the Consent Order will be issued by

my signature on that document. It shall become effective upon the expiration of thirty days or when affirmed by the Secretary within that time. *See* 42 U.S.C. § 3612(g)(3); 24 CFR 180.680.

So **ORDERED**.

A handwritten signature in cursive script, appearing to read "R. Andretta", written over a horizontal line.

ROBERT A. ANDRETTA
Administrative Law Judge

Dated: September 6, 2001

UNITED STATES OF AMERICA
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF ADMINISTRATIVE LAW JUDGES

The Secretary, United States)
Department of Housing and Urban)
Development, on behalf of)
John Demizzo,)
)
Charging Party, and)
)
John Demizzo,)
)
Intervenor,)
)
v.)
)
Wesley K. Flowers, AIMCO Residential)
Group L.P., Security Pacific Properties,)
)
Respondents)
_____)

HUDALJ:
09-99-0004-8

CONSENT ORDER AMENDING THE FINAL DECISION AND ORDER

I. BACKGROUND

On January 22, 2001, a HUD Administrative Law Judge issued an Initial Decision and Order in the above-referenced fair housing case, which, without modification, became the Final Decision and Order of the agency on February 21, 2001. Pursuant to 42 U.S.C. §3612(i), Respondents have petitioned the United States Court of Appeals for the Ninth Circuit (Docket No. 01-70460) for review of the Final Decision and Order.

All the parties wish to avoid further litigation and, therefore, agree to settle all claims arising out of the underlying action by amending the relief contained in the Final Decision and Order of February 21, 2001, as set forth below and submitting this Consent Order to HUD's Office of Administrative Law Judges for acceptance and issuance.

II. EFFECTIVE DATE

1. This Consent Order will become effective upon the expiration of thirty (30) days after the date on which it is accepted and issued by a HUD Administrative Law Judge, or its affirmance by the Secretary of Housing and Urban Development within that time.

III. TERM

2. The term of this Consent Order shall be one (1) year from its effective date.

IV. GENERAL PROVISIONS

3. Respondents Wesley K. Flowers (Flowers), AIMCO Residential Group, L.P. (AIMCO), and Security Pacific Properties (Security Pacific) deny having discriminated against Complainant/Intervenor John Demizzo, but agree to settle the claims in the underlying action by entering into this Consent Order.
4. All of the parties agree that this Consent Order constitutes a complete and final resolution of the underlying claims, and expressly covenant that they will not attempt to appeal any findings of fact or conclusions of law reached in the underlying proceedings.
5. The express purpose of this Consent Order is to modify specific provisions regarding relief contained in the Final Decision and Order of February 21, 2001. The express provisions contained in Sections V and VI of this Consent Order supersede any contrary language in the Final Decision and Order of February 21, 2001, relating to monetary damages, record-keeping, and/or reporting requirements.
6. Each provision or portion thereof of the Final Decision and Order of February 21, 2001, not specifically modified by Sections V and/or VI of this Consent Order shall be enforced as delineated in the Final Decision and Order of February 21, 2001.
7. Following the execution of this Consent Order by all parties, it shall be submitted to the HUD Office of Administrative Law Judges for acceptance and issuance by a HUD Administrative Law Judge.
8. All parties to this Consent Order shall pay their own costs of the appeal to the Ninth Circuit, and expressly renounce any claim to attorney fees and/or costs incurred at any stage in this action.
9. The parties agree that the execution of this Consent Order may be accomplished by separate execution of consents to this Consent Order, the original executed signature pages to be attached to the body of the Consent Order to constitute one document.

10. In consideration of the execution of this Consent Order, and other good and valuable consideration, Complainant/Intervenor John Demizzo forever waives, releases and covenants not to sue Respondents Flowers, AIMCO, and Security Pacific, or pursue any administrative action against them, with respect to any matters which were or which might have been alleged in the subject complaint filed with the Department.
11. In consideration of the execution of this Consent Order, and other good and valuable consideration, Respondents Flowers, AIMCO, and Security Pacific, hereby forever waive, release and covenant not to sue, or pursue any administrative action against Complainant/Intervenor John Demizzo or HUD, with respect to any matters which were or which might have been alleged in the subject complaint filed with the Department.
12. This Consent Order does not in any way limit or restrict the Department's authority to investigate any other complaints involving Respondents Flowers, AIMCO, and Security Pacific made pursuant to the Fair Housing Act, or any other complaint within the Department's jurisdiction.
13. 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 Consent Order.
14. Within five (5) business days of the date of the last signature on this Consent Order, the Charging Party and Respondents Flowers, AIMCO, and Security Pacific shall move the United States Court of Appeals for the Ninth Circuit to dismiss the petition for review in Docket No. 01-70460 and remand the case to the United States Department of Housing and Urban Development Office of Administrative Law Judges for entry of this *Consent Order Amending the Final Decision and Order*.
15. Upon remand from the United States Court of Appeals for the Ninth Circuit, the Charging Party shall move the United States Department of Housing and Urban Development, Office of Administrative Law Judges, for entry of this *Consent Order Amending the Final Decision and Order*.

V. AMENDED RELIEF TO COMPLAINANT/INTERVENOR

16. The following paragraph shall be substituted for paragraph 5 of the Final Decision and Order of February 21, 2001:

Respondents Flowers, AIMCO and Security Pacific shall pay the sum of \$39,000.00, which will be inclusive of all damages, attorney fees and costs incurred by Complainant/Intervenor. The payment will be made by certified check within ten (10) business days of the effective date of this Consent Order and will be sent by certified mail to: Steven Collier, Esq., Tenderloin Housing Clinic, 126 Hyde Street, San Francisco, CA 94102. The certified check will be made payable to: Tenderloin Housing Clinic in trust for John Demizzo.

VI. AMENDED RELIEF IN THE PUBLIC INTEREST

17. The following paragraph shall be substituted for paragraph 1 of the Final Decision and Order of February 21, 2001:

Respondents agree not to discriminate against any person with respect to housing because of handicap, or any other characteristic protected by the Fair Housing Act. Respondents further agree not to retaliate against or otherwise harass any person because they have exercised rights granted under any fair housing statute, ordinance or regulation.

18. The following paragraph shall be substituted for paragraphs 2 and 3 of the Final Decision and Order of February 21, 2001:

Respondents AIMCO and Security Pacific will comply with the following requirements at the property commonly known as Scotchollow, which is located in San Mateo, California ("the Property"):

- a) On the last day of every third month beginning August 31, 2001, and continuing for one year, said Respondents shall submit reports containing the following information regarding the previous three months:
 - i). A copy of each application for all persons who applied for occupancy at the Property, including a statement of each person's handicap status (if known), whether the person was rejected or accepted, the date of such action and, if rejected, the reason for the rejection;
 - ii). A list of vacancies at the Property, including the departed tenant's handicap status (if known), the move out date, the reasons for the departure (if known), the date the unit was next occupied, and the handicap status (if known) of the new occupants;
 - iii). Current occupancy statistics indicating which units are occupied by at least one handicapped individual (if known).

19. The following paragraph shall be substituted for paragraph 4 of the Final Decision and Order of February 21, 2001:

Respondents shall inform all their agents and employees responsible for compliance with this Consent Order, including any officers and board members of their businesses, of the terms of this Order and shall provide each such person

with a copy of this Consent Order and a copy of the Final Decision and Order of February 21, 2001.

20. The following paragraph shall be substituted for paragraph 6 of the Final Decision and Order of February 21, 2001:

Respondents Flowers, AIMCO and Security Pacific will pay the sum of \$1000.00 to the United States, pursuant to 42 U.S.C. Section 3612(g)(3). This payment shall be made by certified check payable to the United States Treasury within ten (10) business days of the effective date of this Consent Order and will be sent by certified mail to: Tyrone Hill, Paralegal Specialist, HUD, Office of Counsel, 450 Golden Gate Avenue, P.O. Box 36003, San Francisco, 94102.

21. Paragraph 7 of the Final Decision and Order of February 21, 2001, will be null and void.

VII. MONITORING

22. The Department shall determine compliance with the terms of this Consent Order. During the term of this Consent Order, HUD, after affording Respondents reasonable notice, may review compliance with this Consent Order, subject to and in accordance with HUD's regulations. As part of such review, HUD may inspect Respondents' property identified in paragraph 18 above, examine witnesses, and copy pertinent records of Respondents. Respondents agree to provide their full cooperation in any monitoring review undertaken by HUD to ensure compliance with this Consent Order.

VIII. REPORTING

23. Within twenty-one (21) days of the effective date of this Consent Order, a copy of the certified check required by paragraph 16 of this Consent Order shall be sent to:

Chuck Hauptman, Director
Fair Housing and Equal Opportunity HUB
450 Golden Gate Avenue
P.O. Box 36003
San Francisco, CA 94102

24. The reports required by paragraph 18 of this Consent Order shall be sent to:

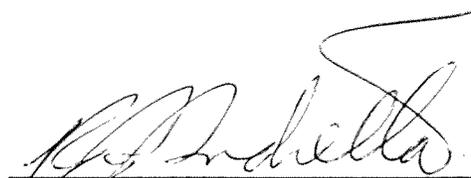
Chuck Hauptman, Director
Fair Housing and Equal Opportunity HUB
450 Golden Gate Avenue
P.O. Box 36003

San Francisco, CA 94102

IX. ENFORCEMENT

25. This Consent Order shall be fully enforceable by the United States Court of Appeals for the Ninth Circuit as if it had been part of the Final Decision and Order of the agency. *See*, 42 U.S.C. §3612(j),(m).

ISSUED BY:



ROBERT A. ANDRETTA
Administrative Law Judge

Dated: September 6, 2001

SIGNATURE PAGE

Consent Order Amending the Final Decision and Order - HUDALJ 09-99-0004-8

Scott Badami
Scott Badami, Esq.

(Counsel for Respondent
Flowers, AIMCO Residential
Group, L.P., and Security
Pacific Properties)

Date

Wesley K. Flowers
Wesley K. Flowers

5/30/01

Date

Joel F. Bondar

(On behalf of AIMCO Residential
Group, L.P.)

Joel F. Bondar

5/30/01

Date

Roy Lee

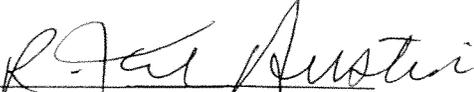
(On behalf of Security Pacific
Properties)

Roy Lee

5/30/01

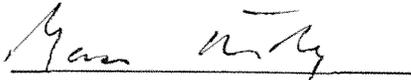
Date

FOR THE CHARGING PARTY:



R. Faye Austin, Assistant
General Counsel

June 12, 2001
Date



Marc Rothberg, Attorney

June 12, 2001
Date

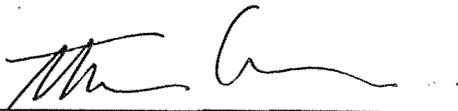
COMPLAINANT/INTERVENOR:



John Demizzo

JUNE 12 2001
Date

FOR THE COMPLAINANT:



Steven Collier, Esq.
PH

June 12, 2001
Date

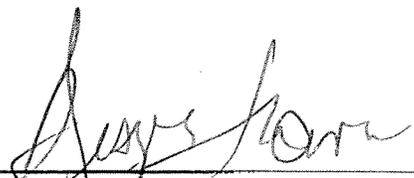
SIGNATURE PAGE

Consent Order Amending the Final Decision and Order - HUDALJ 09-99-0004-8

FOR THE RESPONDENTS:

Scott Badami, Esq.
(Counsel for Respondent
Flowers, AIMCO Residential
Group, L.P., and Security
Pacific Properties)

Date



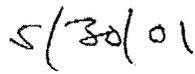
Wesley K. Flowers



Date



(On behalf of AIMCO Residential
Group, L.P.)



Date

(On behalf of Security Pacific
Properties)

Date

Scott Badami, Esq.
(Counsel for Respondent
Flowers, AIMCO Residential
Group, L.P., and Security
Pacific Properties)

Date

Wesley K. Flowers

Date



(On behalf of AIMCO Residential
Group, L.P.)

5/30/01

Date

Joel F. Bonder

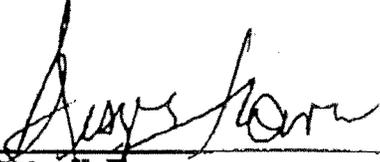
(On behalf of Security Pacific
Properties)

Date

Roy Lee

Scott Badami, Esq.
(Counsel for Respondent
Flowers, AIMCO Residential
Group, L.P., and Security
Pacific Properties)

Date



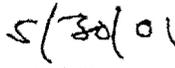
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Date



(On behalf of AIMCO Residential
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Joel F. Bonder



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(On behalf of Security Pacific
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