

The Secretary, United States Department
of Housing and Urban Development,
on behalf of Complainant [REDACTED]

V.

Respondents.

December 11, 2013

FHEO No. 07-12-0411-8

Respondents deny they violated the Act as alleged in the Charge, but agree to settle the claims in the underlying action by entering into this Initial Decision and Consent Order ("Consent Order"). The entry of this Consent Order shall not be deemed as an admission of fault or liability by Respondents.

II. GENERAL PROVISIONS

1. The parties acknowledge that this Consent Order is a voluntary and full resolution of the disputed complaint. No party has been coerced or in any way forced to become a party to it. The parties acknowledge that they have read and fully understand the significance of the provisions of this Consent Order and their obligations hereunder.
2. The parties agree that the Charging Party shall file with the Office of Administrative Law Judges a Motion for Entry of an Initial Decision and Consent Order, along with this Consent Order, after this document is executed by all parties.
3. This Consent Order is binding upon Respondents, their members, principals, owners, employees, successors, agents, assigns, and all others in active concert with them in the operation of Brentwood Manor Apartments and Cohen-Esrey management company entities.
4. In consideration of the execution of this Consent Order, Complainant [REDACTED] hereby forever waives, releases, and covenants not to sue HUD or Respondents, their heirs, executors, successors, 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 HUDOHA 13-AF-0176-FH-017/FHEO No. 07-12-0411-8, or which could have been filed in any action or suit arising from said subject matter.
5. In consideration of the execution of this Consent Order, Respondents hereby forever waive, release, and covenant not to sue HUD, Complainant [REDACTED], their heirs, executors, successors, 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 HUDOHA 13-AF-0176-FH-017/FHEO No. 07-12-0411-8, or which could have been filed in any action or suit arising from said subject matter.
6. Pursuant to 24 C.F.R. § 180.680, this Consent Order is a public document.

III. RELIEF FOR COMPLAINANT

7. Within forty (40) days of the entry of this Consent Order, Respondents shall pay to Complainant [REDACTED] the sum of \$20,000 in full settlement of her claims for damages arising out of the allegations presented in the Charge. Payment shall be made in two installments of \$10,000 by certified check and mailed to Complainant's address by certified or overnight mail (or similar method with delivery tracking and confirmation). The first payment shall be made within thirty (30) days of the entry of this Consent Order and the second payment shall be made within forty (40) days of the entry of this Consent Order.

IV. ACTIONS IN THE PUBLIC INTEREST

8. Injunction from Discrimination: Respondents, their agents, employees, successors, members and assigns, and all other persons in active concert or participation with any of them in the ownership or operation of the subject property, are hereby enjoined from:
 - a. Discriminating in the sale or rental, or otherwise making unavailable or denying, a dwelling to any buyer or renter because of disability, as prohibited by the Fair Housing Act, 42 U.S.C. § 3604(f)(1);
 - b. Discriminating against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of disability, as prohibited by the Fair Housing Act, 42 U.S.C. § 3604(f)(2);
 - c. Refusing to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford persons with disabilities equal opportunity to use and enjoy a dwelling, as prohibited by the Fair Housing Act, 42 U.S.C. § 3604(f)(1), (f)(2), and (f)(3)(B).
9. Adoption and Implementation of Reasonable Accommodation Policy
 - a. Within ninety (90) days of the entry of this Consent Order, Respondents agree to adopt and implement a revised "Reasonable Accommodation Policy" that complies with the Fair Housing Act and Section 504 of the Rehabilitation Act of 1973. The new Reasonable Accommodation Policy shall include a revised "Need for Reasonable Accommodation Verification Form." Respondents agree to submit the revised Policy and Form to counsel for the Charging Party for approval within forty-five (45) days of the entry of this Consent Order.
 - b. Respondents shall, no later than ten (10) days after the adoption of the Reasonable Accommodation Policy, notify in writing each resident of Brentwood Manor Apartments of the adoption and implementation of the Policy and shall provide a copy of the Policy with such notification. Respondents shall provide a copy of the notice sent to residents to HUD within ten (10) days of the notification to residents.
 - c. Respondents shall provide a notice and copy of the Reasonable Accommodation Policy to new tenants with their lease and move-in packet.
10. Mandatory Education and Training
 - a. Within one hundred and eighty (180) days of the entry of this Consent Order, Respondents and all employees of Respondents CE Real Estate Services, Inc. d/b/a Cohen-Esrey Real Estate Services, Inc.; Cohen-Esrey Communities, L.L.C.; and Cohen-Esrey Real Estate Services, L.L.C , and individuals acting under their direction who interact with residents or applicants at the subject property ("covered Cohen-Esrey employees") shall attend a minimum of four (4) hours of Fair Housing Training pertaining to their obligations under the Fair Housing Act and other applicable federal, state or local housing non-discrimination laws.

Respondents must obtain written approval of the trainer from counsel for the Charging Party at least thirty (30) days prior to the commencement of the training. All costs of the training shall be borne by Respondents. Respondents shall require all attendees to sign a certification of attendance.

- b. After completing the training set out in Paragraph 10(a) above, covered Cohen-Esrey employees must receive annual Fair Housing Training at least once each year for a minimum of one (1) hour. Each new covered Cohen-Esrey employee must receive at least two (2) hours of Fair Housing Training within thirty (30) days of starting employment. Respondents shall maintain records of evidence of the completion of Fair Housing Training throughout the term of this Consent Order.

- 11. Fair Housing Poster: Within ten (10) days of the entry of this Consent Order, Respondents agree to display a HUD Fair Housing Poster, provided by HUD, in a conspicuous location in the rental office of the subject property. The poster shall be displayed throughout the term of this Consent Order.

V. REPORTING AND RECORDKEEPING

- 12. Within forty-five (45) days of the entry of this Consent Order, Respondents shall send a copy of the checks sent to Complainant, pursuant to Paragraph 7, to the attention of Kristy McTighe, Trial Attorney, at the address below.
- 13. During the term of this Consent Order, Respondents shall notify HUD of any formal complaint filed against them with a local, state, or federal agency regarding equal opportunity or housing discrimination within ten (10) days of receipt of any such complaint.
- 14. During the term of this Consent Order, Respondents shall maintain records regarding their implementation of the Reasonable Accommodation Policy, including their receipt and processing of reasonable accommodation requests.
- 15. Within one hundred and ten (110) days of the entry of this Consent Order, Respondents shall provide a copy of the notice sent to residents about the Reasonable Accommodation Policy, pursuant to Paragraph 9(b), and a copy of the notice that will be provided to new tenants, pursuant to Paragraph 9(c), to HUD.
- 16. Within ten (10) days after the completion of the Fair Housing Training required pursuant to Paragraph 10(a), Respondents shall submit the signed attendance list to HUD.
- 17. Respondents shall submit evidence of the completion of the annual and new employee training requirements in Paragraph 10(b) to HUD by December 1 of each calendar year.

18. Within forty-five (45) days of the entry of this Consent Order, Respondents shall submit a photograph to HUD showing that the Fair Housing Poster described in Paragraph 11 has been posted in the requisite location.
19. All required notifications and documentation of compliance must be submitted to HUD as follows, unless otherwise indicated:

Betty Bottiger
Director, Region VII
Office of Fair Housing and Equal Opportunity
U.S. Department of Housing and Urban Development
Gateway Tower II
400 State Avenue
Kansas City, KS 66101-2406

Kristy McTighe
Trial Attorney, Region VII
Office of Regional Counsel
U.S. Department of Housing and Urban Development
Gateway Tower II
400 State Avenue
Kansas City, KS 66101-2406

VI. COMPLIANCE

20. During the term of this Consent Order, HUD may review compliance with this Consent Order, subject to and in accordance with HUD regulations. As part of such review, HUD may, upon providing advance notice of said inspection, inspect Respondents' property, examine witnesses, and copy pertinent records of Respondents. Respondents agree to provide their full cooperation in any compliance review undertaken by HUD to ensure compliance with this Consent Order.
21. Upon a breach of any provision of this Consent Order, HUD may refer this matter to the Department of Justice to petition the United States Court of Appeals for the Eighth Circuit to enforce the Consent Order and for any other appropriate relief in accordance with 42 U.S.C. § 3612(j).

VII. ADMINISTRATION

22. This Consent Order shall remain in effect for a period of two (2) years from its effective date.
23. This Consent Order is entered pursuant to 42 U.S.C. § 3612(g)(3) and 24 C.F.R. § 180.450. The effective date of the Consent Order is the date it becomes final, *i.e.*, upon the expiration of thirty (30) days from the date of its issuance, or earlier affirmance by the Secretary. 42 U.S.C. § 3612(h); 24 C.F.R. § 180.680(b)(2).

24. This Consent Order does not in any way limit or restrict HUD's authority to investigate any other complaints involving Respondents made pursuant to the Act, or any other complaints within HUD's jurisdiction.
25. The parties agree that if a party to this agreement needs an extension of time in order to satisfy a deadline provided herein, such extension must be obtained in writing from counsel for the Charging Party and/or the FHEO Director, as appropriate.
26. The signature of the parties to this Consent Order constitute a waiver of any right to apply for attorney's fees or costs pursuant to 24 C.F.R. § 180.705. Each party is responsible for its own attorney's fees and costs.
27. The parties and counsel agree that in the interest of a prompt conclusion of this matter, the execution of this Consent Order may be accomplished by the parties' signatures on separate pages of this Consent Order, with the individual signature pages to be attached to the body of the Consent Order to constitute one document to be filed with the Office of Administrative Law Judges. Signatures of the parties to this Consent Order may be executed by way of facsimile or electronic transmission.
28. The signatures of the parties to this Consent Order constitute a waiver of any right to withdraw their consent during the thirty (30) day Secretarial review period, and a waiver of any right to challenge the validity of the Consent Order at any time.

VIII. AGREEMENT OF THE PARTIES

RESPONDENTS:


Brentwood Manor Apartments, L.P.

11-14-13
Date


CEHP XXVI, L.L.C.

11-14-13
Date


CE Real Estate Services, Inc.
d/b/a Cohen-Esrey Real Estate Services, Inc.

11/14/13
Date


Cohen-Esrey Communities, L.L.C.

11/14/13
Date


Cohen-Esrey Real Estate Services, L.L.C.

11/14/13
Date

COUNSEL FOR RESPONDENTS:


Mark Wilson

11/20/13
Date

VIII. AGREEMENT OF THE PARTIES

COMPLAINANT:



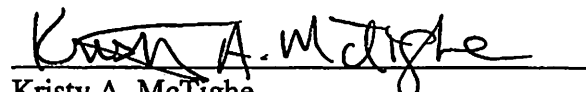
11-28-2013
Date

COMPLAINANT'S REPRESENTATIVE:



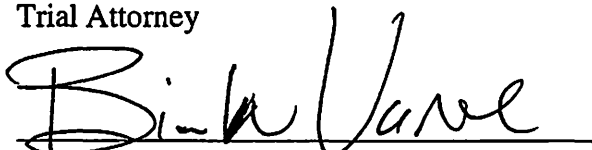
11-28-2013
Date

COUNSEL FOR THE CHARGING PARTY, U.S. DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT:



Kristy A. McTighe
Trial Attorney

12/5/13
Date



Bion W. Vance
Associate Regional Counsel

12/5/13
Date

IX. ORDER OF THE COURT

The hearing in this matter was scheduled for February 25, 2014. On December 5, 2013, the parties filed a motion for entry of this Initial Decision and Consent Order, incorporating the terms of their settlement agreement. The Court, after reading the agreement finds that it appears to be in the public interest. All parties have given their consent and signed the agreement incorporated in the foregoing Initial Decision and Consent Order, which is hereby accepted and issued.

So ORDERED, this 11th day of December, 2013.

A handwritten signature in blue ink, appearing to read "Alexander Fernández", is written over a horizontal line. To the right of the signature is a large, hand-drawn blue oval.

Alexander Fernández
Administrative Law Judge