

UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

And

SECTION 504 OF THE REHABILITATION ACT

VOLUNTARY COMPLIANCE AGREEMENT

Between

The United States Department of Housing and Urban Development

And

Aurora Housing Authority  
(Recipient)

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

FHEO CASE NUMBERS: 05-13-0732-4 and 05-13-0732-6

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**A. PARTIES AND SUBJECT PROPERTY**

**The United States Department of Housing and Urban Development**  
Office of Fair Housing and Equal Opportunity

**Recipient**

Henry Champen, Chairman  
Aurora Housing Authority  
1630 W. Plum Street  
Aurora, IL 60506

Representing Recipient

Peter K. Wilson, Jr.  
Mickey, Wilson, Weiler, Renzi and Andersson, P.C.  
2111 Plum Street, Suite 201  
Aurora, IL 60506

**B. STATEMENT OF FACTS**

A complaint was filed on April 19, 2013 with the United States Department of Housing and Urban Development ("HUD" or "Department"), alleging that Recipient violated Title VI of the 1964 Civil Rights Act and Section 504 of the Rehabilitation Act, on the bases of race and disability, respectively. In response to this complaint, HUD initiated a review of Recipient's compliance with the aforementioned statutes and regulations.

It is alleged that Recipient discriminated when it decided, in the wake of its decision to demolish the Jericho Circle public housing development in 2010, to withdraw its pre-application for Low Income Housing Tax Credit Financing ("LIHTC") in February 2013, which had been given preliminary approval by the Illinois Housing Development Authority ("IHDA") on or about January 29, 2013. If awarded, the financing would have funded redevelopment of new mixed-income housing, including family public housing, at Jericho Circle. It is further alleged that Recipient's decision to withdraw the pre-application and not submit a full application in support of its proposal had a disparate impact on the bases of race, familial status, and disability against households who were on Recipient's various waiting lists for federally assisted housing, including the tenant protection voucher waiting list.

Recipient denies the allegations and admits no wrongdoing. Recipient asserts that it is, and always has been, fully committed to the development of affordable housing in Aurora, and to ensuring that fair housing opportunities are made available to everyone in Aurora.

The Parties hereto have agreed to resolve their differences and settle the underlying action by entering into this Voluntary Compliance Agreement.

**C. TERM OF AGREEMENT**

1. This Voluntary Compliance Agreement (hereinafter "Agreement") shall govern the conduct of the Parties until such time as the development described in Paragraph 12 of this Agreement has been completed.

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

2. The Parties expressly agree that this Agreement constitutes neither a binding contract under state or federal law nor a Voluntary Compliance Agreement pursuant to the Act, unless and until such time as it is approved by the U.S. Department of Housing and Urban Development ("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.

#### **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. Recipient acknowledges that it has an affirmative duty not to discriminate, 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 Title VI and/or Section 504. Recipient further acknowledges that in the event there was any subsequent retaliation or discrimination it would constitute both a material breach of this Agreement, and a statutory violation of Title VI and/or Section 504.
6. This Agreement, after it has been approved by the FHEO Regional Director, or his designee, is binding upon Recipient, its executives, employees, officers, commissioners, contractors, successors and assigns and all others in active consort with it. This Agreement, after it has been approved by the FHEO Regional Director, is also binding on the Department.
7. It is understood that, pursuant to Section 810(b)(4) of the federal Fair Housing Act, upon approval of this Agreement by the FHEO Regional Director, or his designee, it is a public document.
8. This Agreement does not in any way limit or restrict the Department's authority to investigate any other complaint involving the Recipient made pursuant to the Act, Title VI, Section 504, or any other complaint within the Department's jurisdiction.
9. 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 or his designee.

10. 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.
11. Recipient hereby forever waives, releases, and covenants not to sue the Department and its employees, officers, officials, contractors and/or attorneys with regard to any and all claims, damages and injuries of whatever nature whether presently known or unknown, arising out of the subject matter of HUD Case Number 05-13-0732-6/4, which could have been filed in any action or suit arising from said subject matter at the time of the effective date of this Agreement.

#### **G. AGREEMENTS**

12. Recipient shall develop a minimum of 100 units of affordable family housing. The affordable family housing units may be financed for acquisition, construction, rehabilitation and operation by Recipient's operating or capital funds, LIHTC financing, Replacement Housing Funds, project-based Housing Choice Vouchers, and/or other affordable housing grants and programs. The Recipient shall make all reasonable efforts to include a mix of bedroom sizes for these units as reflective of the demand from Recipient's current public housing and housing choice voucher waiting lists. For the purposes of this paragraph, a unit will be considered "affordable family housing" where:
  - A. Occupancy of the unit is limited to families with incomes under 80% of the Area Median Income; and
  - B. The rent responsibility for tenants of the unit does not exceed 30% of the family's monthly adjusted household income; and
  - C. The unit is affirmatively marketed to qualified eligible individuals and families, including families with children; and
  - D. Subject to the applicable admissions criteria documented in Recipient's Administrative Plan and its Admissions and Continued Occupancy Plan, vacancies are filled first by families on Recipient's public housing and housing choice voucher waiting lists; and
  - E. The Recipient enters into such agreements and takes such actions as are otherwise necessary to ensure the unit's availability under lease terms consistent in all material respects with those owned by Recipient and leased in accordance with the requirements described in 24 C.F.R. §983 or 24 C.F.R. §966.4, as applicable.

13. Within sixty (60) days of the effective date of this Agreement, Recipient shall make all reasonable efforts to conduct a canvass of former Jericho Circle residents who were displaced as a result of its demolition.
  - A. Recipient shall inform members of this class of the content of this Agreement, and shall seek to determine whether members of the class wish to return to any of the units developed pursuant to this Agreement, subject to the applicable admissions criteria.
  - B. Notwithstanding Paragraph 12D of this Agreement, any class members identified as a result of Recipient's efforts pursuant to Paragraph 13A of this Agreement, and who wish to return to any of the units developed under this Agreement, subject to the applicable admissions criteria, shall be given precedence over other families on Recipient's public housing and housing choice voucher waiting list, except that units being developed pursuant to Paragraph 21 of this Agreement may be exempt from this requirement.
14. At least 10%, or ten of the units described in Paragraph 12 shall comply with Uniform Federal Accessibility Standards for Accessible Design. Four of the units described in Paragraph 21 of this Agreement shall be included within that set of ten units described herein. These units shall be marketed towards families who are qualified as physically disabled under Section 504.
15. The units described in Paragraph 12 of this Agreement need not all be contained on the same site, and may be scattered throughout the Recipient's jurisdiction, at its discretion. The Recipient serves geographic areas contained in ZIP codes 60502, 60504, 60505 and 60506. Recipient shall fairly allocate units among all of the geographic areas served giving due consideration to location of units to amenities, including transportation, shopping, schools, and medical services. In addition, any new sites acquired by Recipient will be subject to a site and neighborhood standard review by the Department, pursuant to 24 C.F.R. §941.202 and 24 C.F.R. §983.57, as applicable.
16. Recipient shall partner with a developer with previous experience in developing mixed-income, mixed-finance affordable housing developments, including, but not limited to, Brinshore Development, LLC. The developer shall be subject to approval by the Department.
17. Recipient, with its developer co-sponsor, shall apply for LIHTC with IHDA during upcoming funding cycles as may be necessary to fulfill the objectives described in Paragraph 12 of this Agreement. Any such units meeting the definition of affordable family housing units in Paragraph 12 of this Agreement, which house people from Recipient's public housing or housing choice voucher waiting list, and/or former Jericho Circle residents described in Paragraph 13B of this Agreement, developed as a result of awards from these funding cycles, shall count towards the requirement described in Paragraph 12 of this Agreement.
18. The Parties acknowledge that Recipient intends to develop scattered-site housing, as described in Paragraph 15 of this Agreement, in lieu of a single-site redevelopment of

the Jericho Circle site. Until the objective described in Paragraph 12 of this Agreement has been achieved, Recipient shall not attempt to dispose of the Jericho Circle site (as described in Exhibit A to this Agreement). The objectives described in Paragraph 12 of this Agreement may be achieved either as described herein or at the Jericho Circle site. Exceptions for partial disposition of the site may be made at the sole discretion of the Department, where such partial disposition may fulfill an important objective of Recipient, and such partial disposition will not impede the objectives described in Paragraph 12.

19. Recipient shall make all reasonable efforts to obtain and/or use LIHTC financing, Replacement Housing Funds, project-based Housing Choice Vouchers, and/or funds from other affordable housing grants and programs, in order to fulfill the objective described in Paragraph 12 of this Agreement. If, after thirty months from the effective date of this Agreement, or, after two years from the approval date of the last successful application for LIHTC and/or HUD project approval and/or any other approval for funding to support the acquisition or development of affordable family housing (whichever date comes last), Recipient has not secured sufficient funding and/or acquired the necessary land parcels to finance the development of the units described in Paragraph 12 of this Agreement, Recipient shall make all reasonable efforts to redevelop affordable family housing at the Jericho Circle site (the "deadline"). The deadline shall reset after each successful funding application and/or HUD project approval, subject to the limitation in Paragraph 20 of this Agreement. The deadline may be extended at the sole discretion of the Department, if it believes that Recipient has made all reasonable efforts to comply with the requirements of Paragraph 12 of this Agreement, yet has been unable to meet the objective described therein, due to reasons beyond its control. Prior to redevelopment at the Jericho Circle site, the Parties agree to meet to discuss alternative ways to complete the objective described in Paragraph 12 of this Agreement.
20. If, after five years from the effective date of this Agreement, Recipient has not accomplished the objective described in Paragraph 12 of this Agreement, then Recipient shall make all reasonable efforts to redevelop affordable family housing at the Jericho Circle site. Prior to redevelopment at the Jericho Circle site, the Parties agree to meet to discuss alternative ways to complete the objective described in Paragraph 12 of this Agreement.
21. The completion of the objective described in Paragraph 12 of this Agreement shall be given priority over other housing-related activities to be carried out by Recipient.
22. The Parties acknowledge that a minimum of 40 affordable family housing units are currently being developed by Recipient after receipt of a LIHTC funding award that predates the execution of this Agreement. Those 40 units, as well as any additional units developed as a result of this funding award, shall count towards the fulfillment of the requirements in Paragraph 12 of this Agreement, provided that they otherwise meet the objective and definitions described therein, including providing housing for people who formerly lived at Jericho Circle, as described in Paragraph 13B of this Agreement, or who were on Recipient's public housing or housing choice voucher waiting list.

23. The Parties acknowledge that of the 40 affordable family housing units described in Paragraph 22 of this Agreement, eight of those units shall be tenanted off of the Illinois Housing Development Authority State Referral Waiting List ("state list") to the extent required by LIHTC awards, it being understood that Recipient shall examine the state list for persons who are on both the state and PHA lists. For first occupancy, if Recipient is unable to fill any the aforementioned eight units off of the state list within 90 days, Recipient shall then tenant those remaining units off of its housing choice voucher or public housing waiting lists, or from former Jericho Circle residents described in Paragraph 13B of this Agreement. For subsequent occupancy, if Recipient is unable to fill any of the aforementioned eight units off of the state list within 30 days, Recipient shall then tenant those remaining units off of its housing choice voucher or public housing waiting lists, or from former Jericho Circle residents described in Paragraph 13B of this Agreement.
24. The Parties acknowledge that the units tenanted from the state list, other than those described in Paragraph 22 of this Agreement, shall not count towards the objectives described in Paragraph 12 of this Agreement, except to the extent that those units are filled by qualified individuals and/or families from Recipient's housing choice voucher or public housing waiting lists at first occupancy. To the extent that the units described herein are tenanted from Recipient's housing choice voucher or public housing waiting lists at first occupancy, those units shall count towards the objective set forth in Paragraph 12 of this Agreement. For subsequent occupancy, if Recipient is unable to fill any of the units described herein off of the state list within 30 days, Recipient shall then tenant those remaining units off of its housing choice voucher or public housing waiting lists, or from former Jericho Circle residents described in Paragraph 13B of this Agreement.
25. The Parties acknowledge that a Memorandum of Agreement ("MOA") has been executed in or around January 2014, between Recipient, the City of Aurora, and Brinshore Development, LLC. Any units developed by Recipient pursuant to this MOA shall count towards the fulfillment of the requirements in Paragraph 12 of this Agreement, provided that they otherwise meet the objective and definitions described therein.

#### H. MONITORING

26. The Department shall determine compliance with the terms of this Agreement. During the term of this Agreement, the Department may review compliance with this Agreement. As part of such review, the Department may examine witnesses and copy pertinent records of the Recipient. Recipient agrees to provide its full cooperation in any monitoring review undertaken by the Department to ensure compliance with this Agreement. Any disputes relating to compliance with this Agreement must be submitted to the FHEO Regional Director or his designee for resolution.

27. If at any time while this Agreement is in effect, the Department determines that the Recipient has not made reasonable efforts to comply with this Agreement in a timely fashion, and without obtaining advance written agreement from the FHEO Regional Director or his designee, the Department may attempt to enforce the Agreement and/or initiate proceedings that could result in the denial of federal financial assistance to the Recipient, or any other actions authorized by contractual, statutory, or regulatory remedy available to HUD, including but not limited to the appointment of a third party receiver to administer the operations of Recipient.
28. Failure by HUD to enforce this entire Agreement or any provision in the Agreement with regard to any deadline or any other provision therein shall not be construed as a waiver of its right to do so with regard to other deadlines and provisions of this Agreement. Furthermore, HUD's failure to enforce this entire Agreement or any provision therein shall not be construed as a waiver of any obligation of the Recipient under this Agreement.
29. Recipient shall provide written documentation to the Department of its accomplishments toward implementation of Section G, Paragraphs 12 – 19 of this Agreement on a semiannual basis, beginning six months after the effective date of this Agreement.

**I. REPORTING AND RECORDKEEPING**

30. 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. SIGNATURE PAGE

Henry E. Clayton  
[RECIPIENT]

4-27-2014  
Date

K. APPROVAL

Alan R. Smith  
[FHEO REGIONAL DIRECTOR]

3-29-14  
Date