UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

TITLE VIII

CONCILIATION AGREEMENT

between

U.S. Department of Housing and Urban Development
Assistant Secretary for the Office of Fair Housing and Equal Opportunity
(Complainant)

and

McGowan & Company, Inc.
(Respondent)

Approved by the FHEO Region IV Director on behalf of the
U.S. Department of Housing and Urban Development

FHEO CASE NUMBER: 04-13-0910-8

A. PARTIES AND SUBJECT PROPERTY

This Conciliation Agreement ("Agreement") is entered into by and between the United States Department of Housing and Urban Development (hereinafter "HUD" or "the Department") on behalf of the Assistant Secretary for Fair Housing and Equal Opportunity (hereinafter "Complainant") and McGowan & Company (hereinafter "Respondent"). Complainant and Respondent hereinafter collectively referred to as the "Parties."

Complainant

Assistant Secretary for Fair Housing and Equal Opportunity
U.S. Department of Housing and Urban Development
Office of Fair Housing and Equal Opportunity
451 Seventh Street, S.W.
Washington, DC 20410

Respondent

McGowan & Company, Inc.
20595 Lorain Rd.
Fairview Park, OH 44126

Subject Property

Aqua Vista Townhomes
NE 167 Street
North Miami Beach, Florida 33162

B. STATEMENT OF POSITION

Complainant's Position

The Complainant, the Assistant Secretary for the Office of Fair Housing and Equal Opportunity ("FHEO") (the "Assistant Secretary") of the U.S. Department of Housing and Urban Development filed a Secretary-Initiated Complaint (the "Complaint") pursuant to 42 U.S.C. § 3610(a)(1)(A)(i) ("Section 810") on July 12, 2013, alleging that the Respondent engaged in discriminatory acts in violation of subsections 804(a), 804(b) and 804(c) of the Act. The Complaint alleges that the policies, practices and actions of the Respondent of not providing coverage to properties that have "subsidized housing" and "low-income housing" has a discriminatory effect based on race and national origin.

Respondent's Position

Respondent has entered into this Agreement to avoid the risks, expenses, and burdens of litigation and to resolve voluntarily the claims in the underlying action (the "Claims") regarding

alleged violations of the Fair Housing Act. By settling this matter, Respondent is not admitting to any fault, guilt or liability with respect to the Claims.

C. TERM OF AGREEMENT

1. This Agreement shall govern the conduct of the Parties to it for a period of five (5) years from the Effective Date (as defined below) of the Agreement.

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, unless and until such time as it is approved by the U.S. Department of Housing and Urban Development, through the Office of Fair Housing and Equal Opportunity Region IV Director, or his or her designee.

3. This Agreement shall become effective on the date on which it is approved by the U.S. Department of Housing and Urban Development, through FHEO Region IV Director, or his or her designee ("Effective Date").

E. GENERAL PROVISIONS

4. The Parties acknowledge that this Agreement is a voluntary and full settlement of the Complaint. 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. Respondent acknowledges it has 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. Respondent further acknowledges that any subsequent retaliation or discrimination constitutes both a material breach of this Agreement, and a statutory violation of the Act.

6. This Agreement, after it has been approved by FHEO Region IV Director, or his or her designee, is binding upon Respondent, its employees, heirs, successors and assigns and all others in active concert in the ownership or operation of the subject of this complaint.

7. It is understood that upon approval of this Agreement by the FHEO Region IV Director, or his or her designee, the Agreement will be a public document pursuant to Section 810(b)(4) of the Act.

8. This Agreement does not in any way limit or restrict the Department's authority to investigate any other complaint involving Respondent made pursuant to the Fair Housing Act, 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 Region IV Director, or his or her designee.

10. The Parties agree that the execution of this Agreement may be accomplished by separate execution of consents to this Agreement, the executed signature pages to be attached to the body of the Agreement to constitute one document. Facsimile copies of the Agreement and the signatures hereto may be used with the same force and effect as the original.

11. The Assistant Secretary for FHEO, on behalf of himself and the Department, and their respective successors, assigns, agents, officers, employees, and attorneys, hereby forever waive, release, and covenant not to sue Respondent, or its respective heirs, executors, assigns, agents, directors, officers, employees, partners, or attorneys, or pursue any administrative action or civil action against any of the foregoing, 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 04-13-0910-8 , or which could have been filed in any action or suit arising from said subject matter.

12. Respondent hereby forever waives, releases, and covenants not to sue the Assistant Secretary or the Department, jointly or severally, or their successors, assigns, agents, officers, employees, executors, 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 04-13-0910-8 or which could have been filed in any action or suit arising from said subject matter.

F. RELIEF FOR THE COMPLAINANT

13. Respondent will immediately remove "subsidized" and "low-income housing" from the list of prohibited exposures for all applications for insurance under the Community Association Umbrella Program.

14. Respondent will immediately remove Section 22 of the underwriting guidelines for the Community Association Umbrella Program which states, "Any property that contains subsidized housing is initially not acceptable. A. This does not apply to buildings which have 10% or less subsidized housing."

15. Respondent will immediately remove prohibitions on "subsidized" and "low-income housing" on all applications and all underwriting guidelines for all insurance products that Respondent offers to the residential housing market. The revised applications and underwriting guidelines that no longer include any reference to "subsidized" and "low-income housing" for all insurance products that Respondent offers to the residential housing market shall be provided to HUD for review within sixty (60) days of the effective date of this agreement. HUD recognizes that underwriting guidelines may

contain trade secrets and confidential commercial information. Therefore, HUD agrees to preserve the confidentiality of such documents and agrees to conduct its review of Respondent's revised underwriting guidelines at a convenient, mutually agreed upon, location. No copies of this proprietary information will be included in the public record.

16. Respondent shall not consider whether a property accepts subsidized and low-income housing as a pricing factor when calculating a premium for all insurance products that McGowan offers to the residential housing market.

17. Within one hundred and eighty (180) days of the effective date of this agreement, all management and staff at Respondent who review and/or approve applications for insurance under the Umbrella Program will take at least four (4) hours of training on the Fair Housing Act. The trainer and proposed curriculum will be provided to HUD for approval.

18. During the term of this agreement, Respondent agrees to spend One Hundred Thousand Dollars ($100,000.00) for affirmative marketing of its products to the affordable and low-income housing markets. The Respondent shall sponsor, exhibit and affirmatively market its products at affordable and low-income housing events (i.e. conferences, conventions and symposiums) or affirmatively market the Respondent's products in media (e.g. newspapers, magazines, internet websites, e-mail blasts, or pamphlets) targeted at the insurance brokers of affordable and low-income housing markets or through direct mailings to the insurance brokers of affordable and low-income housing providers. Any such advertisements, flyers or other promotional materials shall include the Equal Housing Opportunity logo and slogan. In addition, human models, if used, shall portray persons in an equal social setting and indicate to the general public that the housing is open to all without regard to race, color, religion, sex, disability, familial status, or national origin, and is not for the exclusive use of one such group. Respondent will submit to HUD the cost of sponsoring, exhibiting and affirmatively marketing its products at affordable and low income housing events, as well as the cost of, and copies of all such advertising media and promotional materials on a bi-annual basis (every six months) until the One Hundred Thousand Dollars ($100,000.00) has been expended during the term of the agreement.

G. RELIEF IN THE PUBLIC INTEREST

19. Respondent agrees to prominently post the Equal Housing Opportunity logo and slogan on its website and on all advertising, pamphlets, brochures and other promotional literature that provides information about its insurance products and services referenced in Section F. 18. above.

H. MONITORING

20. The Department has the authority to determine compliance with the terms of this Agreement. The Department may conduct reviews of Respondent's operations and

facilities to ensure compliance with this Agreement. Respondent agrees to provide its full cooperation in any monitoring review undertaken by HUD to ensure compliance with this Agreement.

I. REPORTING AND RECORDKEEPING

21. Within ten (10) calendar days after the required date of completion of Paragraphs 13, 14, 15, 16, 17 and 18 identified above, Respondent shall certify to HUD, in writing that it has complied with each specific paragraph.

22. All required documentation must be submitted to:

    Natasha J. Watson, Enforcement Director
    U.S. Department of Housing and Urban Development
    Five Points Plaza
    40 Marietta Street
    Atlanta, GA 30303
    ATTN: CASE NUMBER: 04-13-0910-8

J. CONSEQUENCES OF BREACH

23. Whenever the Department has reasonable cause to believe that the Respondent has breached this Agreement, 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 Sections 810(c) and 814(b)(2) of the Act.

24. This Agreement represents the entire agreement and understanding between and among the parties with respect to the subject matter hereof, and it supersedes any and all prior or contemporaneous discussions and/or settlement offers relating thereto.

K. SIGNATURES

WHEREFORE, the parties hereto have duly executed this Agreement:

By: _____ 12/21/16
Gustavo Velasquez
Assistant Secretary for Fair Housing
and Equal Opportunity

Date

McGowan & Company, Inc.

By: _____ 11-2-2016
Print Name: Thomas B. McGowan, IV
Title: President & C.E.O.

Date:

I. ON BEHALF OF THE DEPARTMENT

_____ _____
Carlos Osegueda
FHEO Region IV Director

Date