

UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

CONCILIATION AGREEMENT
among

The United States
Department of Housing and Urban Development

and

Ava Smoldt
1520 E. Capital Expressway, Space #1
San Jose, CA 95113

Complainant

and

Silver Creek Mobile Estates
1520 E. Capital Expressway, Office
San Jose, CA 95113

Silver Creek Estates, LLC
3424 Carson Street, #650
Torrance, CA 90503

Respondents

HUD Case Number: 09-05-0971-8

Effective Date of Agreement: _____

Expiration Date of Agreement: _____

I. GENERAL PROVISIONS

1. On June 23, 2005, Ava Smoldt (hereinafter "the Complainant") filed a complaint under the Fair Housing Act ("Act") against Silver Creek Mobile Estates (hereinafter the _Respondent_) alleging that the Respondent discriminated against the Complainant based on familial status by subjecting her minor children to overly restrictive rules. Specifically, the children were advised that they could not ride scooters and or bikes in the park while adults are allowed to do so, in violation of subsections 804(b) of the Act. 42 U.S.C Section 3604(b). Silver Creek Mobile Estates is an all-age mobile home park comprising 240 spaces. The Department and the other parties hereto wish to reach a just resolution of this dispute. The parties agree that the negotiation of this Agreement shall constitute Conciliation pursuant to the Act and its implementing regulations at 24 C.F.R. §§ 103.310, 103.315 and 103.320.

It is understood and acknowledged that the respondents listed herein page one of this document represents the true and correct parties bound by this Agreement.

2. It is understood that this Agreement does not constitute an admission by the Respondents of any liability under or violation of the federal Fair Housing Act (42 U.S.C. 3601 et seq.).

3. The parties acknowledge that this Agreement is a voluntary and full settlement of the disputed complaint. No party has been coerced, intimidated, threatened, or in any way forced to become a party to this Agreement. The parties have read and fully understand the significance of the terms set forth herein.
4. It is understood that the Respondents deny any violation of law, and that this Agreement does not constitute an admission by the Respondents or evidence of a determination by the Department of any violation of the Act or any other law.
5. The parties agree that, in the interest of speedily concluding this matter, this Agreement may be executed by the parties' signatures on separate pages. The separate signed pages will be attached to the body of the Agreement to constitute one document. To avoid delay, the parties agree that signature pages received via facsimile will be considered official provided that the original copy of the signature page is forwarded to the Department immediately upon the signing of the Agreement. Both the original and the faxed signature pages will be retained in the official case file.
6. This Agreement will become effective on the date it is signed by the Director, Office of Fair Housing and Equal Opportunity, Pacific/Hawaii Field Office. The Director, acting on behalf of the Secretary, has the delegated authority to approve or disapprove this Agreement.
7. The term of this Agreement shall be three (3) years from its effective date.
8. This Agreement is binding upon the U.S. Department of Housing and Urban Development; the Complainant and their successors and assigns; and the Respondents, their employees, heirs, successors and assigns and all others in active concert with it in the operation of Silver Creek Mobile Estates.
9. Pursuant to Section 810(b)(4) of the Act, this Agreement shall become a public document. However, the Department will hold confidential all information of a personal or financial nature concerning parties to this Agreement that is not contained in the body of the Agreement.
10. No amendment to, modification of, or waiver of any provision of this Agreement shall be effective unless all the following conditions are met: (a) all signatories to the Agreement are notified in advance of the proposed 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 Director, Office of Fair Housing and Equal Opportunity, Pacific/Hawaii Field Office. Any such amendment, modification, waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.
11. Respondents agree that any change in management, sale or any and all transfers of the subject property during the term of this Agreement will be conditioned upon the transferee's acknowledgment and acceptance of the provisions of this entire Agreement.

II. MUTUAL RELEASE

12. In exchange for the compliance with the provisions of this Agreement, Complainants and the Department hereby forever waives, releases, and covenants not to sue the Respondents, or pursue any administrative action against the Respondents, with respect to any matters which were alleged in or were within the scope of the allegations of the subject complaint filed with the Department or the list of deficiencies which were discovered or could have been discovered as part of the complaint and the investigation by the Department.
13. This release does not apply to any rights arising from Respondents' failure to comply with the terms of this Agreement or to other complaints or matters of compliance which may be pending with the Department, of which there are none.

14. In consideration of the execution of this Agreement, Respondents and the Department hereby forever waive, release, and covenant not to sue the Complainants and their heirs, executors, assigns, agents, employees and attorneys with regard to any and all claims, damages and injuries of whatever nature whether presently known or unknown, including, but not limited to, those arising out of the subject matter of HUD case number 09-05-0971-8, the investigation and the Respondents' design and construction of the subject property, or which could have been filed in any action or suit arising from said subject matter.

III. NON-RETALIATION

15. Respondents agree not to retaliate against or interfere with Complainants, or any other person, on account of their having filed, or aided in the filing of, the complaint which led to this Agreement or in the exercise of any right under the Act or on account of their having aided or encouraged any other person in the exercise or enjoyment of their rights under the Act.

IV. RELIEF FOR COMPLAINANTS

16. To fully and finally settle the alleged discrimination complaint, Respondent agrees to provide the following terms and conditions:

a. Within 10 days of the effective date of this Agreement, Respondent shall tender the sum of \$8,000.00 (EIGHT THOUSAND DOLLARS AND 00/100) in full and final settlement of the subject complaint. This sum includes payment of \$ 5,500.00 (FIFTY FIVE HUNDRED DOLLARS AND 00/100) to Ava Smoldt, and \$2,500.00 (TWENTY FIVE HUNDRED DOLLARS AND 00/100) to complainant's representative, Fair Housing Law Project.

b. Said payment of \$8,000.00 is to be made in the form of a cashier's check payable to Law Foundation of Silicon Valley Client Trust Account and delivered to FAIR HOUSING LAW PROJECT (FHLP) 111 West Saint John Street, Suite 315, San Jose, CA 95113, in care of Annette Kirkham, Senior Attorney within 10 days of the effective date of this Agreement. A copy of the certified check shall be forwarded to the attention of the U.S. Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, Attention: Conciliation Review, 600 Harrison Street, San Francisco, CA 94107-1387.

V. ACTIONS IN THE PUBLIC INTEREST

17. Within 60 days of the effective date of this Agreement, the manager of Silver Creek Mobile Estates shall attend Fair Housing training conducted by a reputable fair housing organization. The cost of the training shall be borne by the respondent. A certificate of completion including the date and description of the training course shall be forwarded to the Department within 10 days of completion.

18. Respondent acknowledges that the Act makes it unlawful to discriminate in the rental, or to otherwise make unavailable or deny, a dwelling to any renter based upon familial status.

19. Respondent acknowledges that the Act makes it unlawful to discriminate against any person in the terms, conditions, or privileges of rental of a dwelling, or in the provision of services of facilities in connection with such dwelling, based upon familial status.

20. Within thirty (30) days of the date on which this Agreement becomes effective, Respondents agree to communicate the provisions of the Agreement to their respective employees who have any responsibilities or duties related to the provisions of this Agreement, and to provide the Department with a certification that this requirement has been met.

21. Respondents shall continue to display and maintain a fair housing poster as described in Part 110.25 of Title 24 of the Code of Federal Regulations, at all locations where dwelling units are offered for sale or rental. Said posters shall be prominently displayed so as to be readily apparent to all persons seeking housing accommodations.

22. Respondents agree that any and all advertisements or postings will continue to contain the following phrase "Equal Housing Opportunity" conspicuously located within the text.

VI. COMPLIANCE

23. Complainants and Respondents agree that the Department shall monitor compliance with the terms and conditions specified in this Agreement. As a part of such monitoring, the Department may require written reports concerning compliance, inspect the premises, examine witnesses, and examine and copy pertinent records of the Respondents at any reasonable time during the term of this Agreement.

24. The parties understand that if the Department has reasonable cause to believe that Respondents have breached this Agreement, the Department shall refer the matter to the Attorney General for enforcement of the terms of the Agreement pursuant to 42 USC 3610(c).

VII. REPORTS AND RECORD KEEPING

25. This Agreement contains specific actions that are required of Respondents. These actions must be completed within the specified time frames, and satisfactory completion must be verified by the Department. It is understood that this Agreement will serve as the basic notice of the required contents of and deadlines for progress reports. Failure to provide documentation of compliance with the terms of this Agreement constitutes a breach of the Agreement, and may result in referral of the matter to the Attorney General for enforcement proceedings. Provided, however, before any such referral is made, Respondent shall have a 30-day period to cure any such deficiency or breach.

26. As directed by this Agreement, all required certifications and documentation of compliance must be submitted to:

U.S. Department of Housing and Urban Development
Office of Fair Housing and Equal Opportunity
ATTENTION: CONCILIATION REVIEW
600 Harrison Street, 2nd Floor
San Francisco, CA 94107

SIGNATURE PAGE

These signatures attest to the approval and acceptance of this Conciliation Agreement.

Ava Smoldt
Complainant

Date

Annette Kirkham
Attorney
Fair Housing Law Project

Date

SIGNATURE PAGE

These signatures attest to the approval and acceptance of this Conciliation Agreement.

Silver Creek Estates LLC
By: Lee Ouye
Its: Managing Member
Respondent

Date