

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	No. 05 C 5258
)	
v.)	Judge Amy St. Eve
)	
VILLAGE OF SOUTH ELGIN,)	
)	
Defendant.)	

CONSENT DECREE

BACKGROUND

1. The United States initiated this action to enforce the Fair Housing Act, as amended, 42 U.S.C. § 3601, *et seq.* (“the Fair Housing Act” or “the Act”). In its Complaint, the United States alleges that the Defendant, the Village of South Elgin, Illinois (“Village”), violated Section 804(f)(1) of the Act, 42 U.S.C. § 3604(f)(1), by making housing unavailable because of disability,¹ and violated Section 804(f)(3)(B) of the Act, 42 U.S.C. § 3604(f)(3)(B), by refusing to make a reasonable accommodation in rules, policies, or practices to afford persons with disabilities equal opportunity to use and enjoy a dwelling. Specifically, the United States alleges that the Village violated these provisions of the Act when it denied a special use permit to Bret Mathis and his corporation, Unity House, Inc., that would have allowed them to continue to operate a group home in the village for seven to nine persons recovering from dependency on alcohol and illegal drugs.

¹ This Decree uses the term “disability” as the equivalent of the term “handicap” in the Act. See 42 U.S.C. § 3602(h).

2. The defendant denies that it violated any provisions of the Fair Housing Act in this matter and asserts that it complied with applicable law in processing the application for a special use permit. The United States and the Village desire to avoid costly and protracted litigation and have voluntarily agreed to resolve the United States' claims against the Village by entering into this Consent Decree

Therefore, it is hereby ORDERED, ADJUDGED, and DECREED as follows:

I. GENERAL NONDISCRIMINATION PROVISIONS

3. The Village shall not:

A. Discriminate in the sale or rental, or otherwise make unavailable or deny, a dwelling to any buyer or renter because of a disability of that buyer or renter, or of any person residing in or intending to reside in such dwelling, or of any person associated with that buyer or renter;

B. Discriminate against any person in the terms, conditions, or privileges of the sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a disability of that person, of any person residing in or intending to reside in such dwelling, or of any person associated with that person;

C. Refuse to make reasonable accommodations in the application of rules, policies, practices or services when such accommodations may be necessary to afford a person or persons with disabilities an equal opportunity to use and enjoy a dwelling;

D. Coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her

having aided or encouraged any other person in the exercise or enjoyment of, any right protected by the Act.

- E. The preceding injunctions shall specifically, but not exclusively, cover:
- i. administering, enforcing, or amending zoning ordinances of the Village of South Elgin, including, but not limited to, receiving, evaluating, or deciding upon applications for building permits, special exceptions, variances, or other uses not provided for; and
 - ii. conducting hearings, inspecting premises, issuing certificates of zoning compliance or certificates of occupancy, or in reviewing any decision made by any zoning, land-use, or building official.

II. SPECIFIC INJUNCTIVE RELIEF

4. The Defendant shall allow Bret Mathis and Unity House, Inc. to operate a group home for persons recovering from drug and/or alcohol addiction (“recovery home”) for up to seven residents at 618 E. State Street.² This permission shall not be revoked for any reason that violates the Act. The Village reserves the right to ensure that the property is operated in compliance with all codes and legal requirements applicable; provided, however, that the Village shall not enforce any restriction in a manner that discriminates against Unity House, Inc., Bret Mathis, any resident of Unity House or any person associated with any resident of Unity House on the basis of disability.

² On November 15, 2006, the Village conducted a hearing on this matter, pursuant to Illinois law.

III. FAIR HOUSING TRAINING

5. The Defendant shall, no later than forty-five days after the date the Court approves and enters the Decree (the “effective date” of the Decree), provide training in the requirements of the Decree and the Act to the members and staff of the Planning and Zoning Commission, the Community Development Department and the Village Board.

- A. The training shall be conducted by a qualified third party, subject to the approval of the United States. The trainer shall be unconnected to the Defendant or its employees, officials, agents, or counsel, and any expenses associated with this training shall be borne by the Defendant.
- B. As part of the training, each person trained shall be given a copy of the Decree and the Act.
- C. The Defendant shall, no later than thirty days after training, provide to the United States certifications executed by each person trained confirming his or her attendance and date of training. The certifications shall be in the form of Attachment A hereto.
- D. For each person commencing, during the term of the Decree, employment or service in any of the positions listed in this part, Defendant shall, no later than thirty days after such commencement or service, give each such person a copy of the Decree and the Act and shall require each such person to sign a certification acknowledging that he or she has received and read the Decree and the Act. This certification shall be in the form of Attachment B hereto.

IV. REPORTING AND RECORD KEEPING

6. No later than ten days after the effective date of the Decree, the Defendant shall designate an employee or official of the Village of South Elgin to receive complaints of alleged housing discrimination against Defendant and coordinate compliance with this Decree. The designated person shall maintain copies of the Decree, the HUD complaint form, and the pamphlet entitled "Are You a Victim of Housing Discrimination?" (HUD official forms 903 and 903.1, respectively) and make these materials freely available to anyone upon request and without charge, including all persons making housing discrimination complaints to Defendant. The Defendant shall notify the United States in writing of the name, address, and title of the designated person no later than thirty days after the effective date of the Decree.

7. The Defendant shall prepare bi-annual reports that detail the actions they have taken to fulfill its obligations under the Decree. Defendant shall submit its first Compliance Report to the United States no later than six months after the effective date of the Decree, and subsequent reports every six months thereafter, for the duration of the Decree, except that the final report shall be delivered to the United States no fewer than sixty days prior to the date upon which the Decree ceases to be effective.

8. The Defendant shall include the following information in the Compliance Reports:

- A. The name, address, and title of the employee or official serving as the designated person referred to in paragraph 6;
- B. copies of the training certification and acknowledgment forms signed since

- the last report;
- C. any written complaint received since the last report alleging discrimination by Defendant with respect to any matter subject to the injunctions in part III, above. The Defendant shall describe any action taken in response to the complaint and shall include all pertinent documents, such as a copy of the complaint, any documents filed with the complaint, and any written response to the complaint made by Defendant;
- D. the identity of each zoning, land-use, or building application or request for reasonable accommodation related to housing for disabled persons (including those for building permits, special exceptions, variances, or other uses not provided for) for which Defendant has made a determination, indicating: (1) the date of the application; (2) the applicant's name; (3) the applicant's current residential street address; (4) the street address of the proposed housing; (5) the disposition of the application, including any appeals, indicating reasons for that outcome; and (6) if a vote was taken, how each member of the responsible body voted and the date of the vote; and
5. all documents presented in support of oral testimony offered by any member of the public at any hearing held with respect to each such application or request that is denied by Defendant.
9. For the duration of the Decree, the Defendant shall maintain all records relating to

implementation of and compliance with all provisions of the Decree, including, but not limited to, all records related to zoning, land-use, or building applications or requests for reasonable accommodation related to housing for disabled persons. The United States shall have the opportunity to inspect and copy any records maintained as required by the Decree after giving reasonable notice to Defendant.

V. MONETARY RELIEF

10. Within five (5) days from the entry of this Decree, the Village shall pay Bret Mathis the sum of TWENTY-FIVE THOUSAND DOLLARS (\$25,000), in compensatory damages suffered as a result of the denial of the special use permit, by sending a check for that amount made out to Bret Mathis to Counsel for the United States.³

11. As a result of the village's actions, two individuals who had previously resided at Unity House were required to move from the house and not allowed to return. The identities of these individuals have been provided to the Village. Within five (5) days from the entry of this Decree, the Village shall pay to Dennis S. and Michael L., compensatory damages in the amount of SEVEN THOUSAND FIVE HUNDRED DOLLARS (\$7,500) each for not being able to return to Unity House, by sending two checks for that amount made out to the individuals to the counsel for the United States.

12. In consideration of these payments, each payee shall execute a release of claims

³ All submissions pursuant to this Decree shall be sent by overnight delivery service to the following address: United States Department of Justice, Civil Rights Division, Housing and Civil Enforcement Section, 1800 G Street, N.W. Suite 7020, Washington, D.C. 20530.

form, in the form of Attachment C hereto, signifying that the payment constitutes full settlement of any claims the payee may have relating to the subject matter of this action. The United States shall obtain the signed release forms and provide them to Defendants.

V. CIVIL PENALTY

13. Within five (5) days of entry of this Decree, the Village shall pay to the United States a civil penalty of FIFTEEN THOUSAND DOLLARS (\$15,000) to vindicate the public interest, pursuant to 42 U.S.C. § 3614(d)(1)©. The sum shall be paid by submitting to Counsel for the United States a check made payable to the United States Treasury.

VI. DURATION OF ORDER AND TERMINATION OF LEGAL ACTION

14. This Consent Decree shall remain in effect for a period of three (3) years from the date of entry. The Court shall retain jurisdiction over the action for the duration of the Decree to enforce the terms of the Decree, after which time the case shall be dismissed with prejudice.

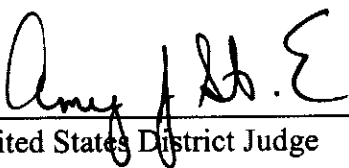
15. The parties shall endeavor in good faith to resolve informally any differences regarding interpretation of and compliance with this Decree prior to bringing such matters to the Court for resolution. However, in the event of a failure by the Village to perform in a timely manner any act required by this Decree, or otherwise to act in conformance with any provision thereof, the United States may move this Court to impose any remedy authorized by law or equity, including, but not limited to, an order requiring performance of such act or deeming such act to have been performed, and an award of any damages, costs, and reasonable attorneys' fees which may have been occasioned by the violation or failure to perform.

VII. TIME FOR PERFORMANCE

16. Any time limits for performance imposed by this Consent Decree may be extended by mutual agreement of the parties in writing.

IT IS SO ORDERED:

This 13 day of December, 2006.


United States District Judge

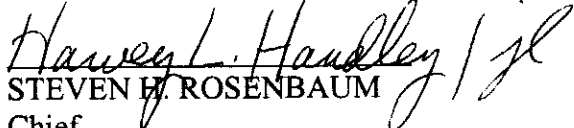
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Attachment A

CERTIFICATION OF ATTENDANCE AT FAIR HOUSING TRAINING

On _____, I attended training on the Consent Order entered by the federal district court in *United States v. Village of South Elgin*, No. 05 C 5258, and the federal Fair Housing Act. I have had all of my questions concerning the Consent Order and the Fair Housing Act answered to my satisfaction.

(Signature)

(Print name)

(Print job title)

(Date)

Attachment B

ACKNOWLEDGMENT OF RECEIPT OF COPIES OF CONSENT ORDER AND FAIR HOUSING ACT

On _____, I received copies of and have read the Consent Order entered by the federal district court in *United States v. Village of South Elgin*, No. 05 C 5258, and the federal Fair Housing Act. I have had all of my questions concerning the Consent Order and the Fair Housing Act answered to my satisfaction.

(Signature)

(Print name)

(Print job title)

(Date)

Attachment C

GENERAL RELEASE IN FULL AND FINAL SETTLEMENT OF CLAIM

relating to

United States v. Village of South Elgin, No. 05 C 5258

FOR AND IN CONSIDERATION of the sum of \$ _____ paid to [name of payee] which is paid by, or on behalf of the Defendant Village of South Elgin, receipt and sufficiency of which is hereby acknowledged, [name of payee] (hereinafter, "Releasor"), with the intent to be legally bound hereby, fully and forever release, acquit, and discharge the Defendant, its underwriters, and any and all other persons, firms, partnerships, and corporations (hereinafter, "Released Parties") which are and might be claimed to be liable to [name of payee] and their successors and assigns from any and all actions, causes of action, claims, joinders, and demands of whatsoever kind or nature as a result of the Defendant's 2003 denial of permission to Unity House, Inc. to operate a recovery home at 618 E., State St., South Elgin, Illinois, as more fully set forth in the Complaint in *United States v. Village of South Elgin, No. 05 C 5258 (N.D. Ill.)*.

It is understood and agreed that: (a) the acceptance of the said sum is in full satisfaction of all claims, disputed or otherwise, of the Releasor and that payment of said sum is not an admission of liability by the Defendant in said action or any Released Party; (b) this release and settlement is intended to cover, and does cover, not only all known injuries, losses, and damages on account of said alleged matters, but also any and all injuries, losses, or damages that later may develop or be discovered, including all the effects and consequences thereof; (c) this agreement shall be construed and interpreted under the laws of Illinois; (d) this agreement shall be binding upon and inure to the successors, assigns, heirs, executors, administrators, and legal representatives of the parties hereto; (e) the Releasor acknowledges that Releasor has had the opportunity to be represented by counsel of Releasor's choosing in negotiating and executing the release and settlement agreement and executed the same after consultation with counsel of Releasor's choosing; and (f) this agreement is the entire agreement between the parties hereto; and that there are no written or oral understandings or agreements, directly or indirectly connected with this Release and Settlement, that are not incorporated herein.

The consent order filed in Civil Action No. 05 C 5258 in the United States District Court for the Northern District of Illinois is incorporated herein.

I hereby declare that the terms of this agreement have been completely read by me and are fully understood and voluntarily accepted by me for the purpose of making full and final compromise settlement as aforesaid.

In witness whereof, with the intent to be legally bound hereby, we have hereunto set our hands and seals this _____ day of _____, 200__.

WITNESS:

[Releasor]

ACKNOWLEDGMENT

STATE OF ILLINOIS

)
)

COUNTY OF KANE

)

On this ____ day of _____, 200__, before me personally appeared, _____, known or sufficiently identified to me to be the person named in the General Release in Full and Final Settlement of Claims relating to *United States v. Village of South Elgin*, No. 05 C 5258, and acknowledged that he or she executed the same as a free act and deed.

Witness my hand and notarial seal this date forth said.

NOTARY PUBLIC

MY COMMISSION EXPIRES: