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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,)
)
)
) Plaintiff,)
)
)
) v.)
)
)
) PACIFIC HOMES; PACIFIC PROPERTIES)
) AND DEVELOPMENT CORP.;)
) STEVEN MOLASKY; MILBURN AND)
) ASSOCIATES, INC.; MICHAEL MILBURN)
) and PACIFIC LEGENDS WEST HOMEOWNERS)
) ASSOCIATION, INC.,)
)
)
) Defendants.)
)
)

C.A. No.: 2:05-CV-1366-JCM-LRL

CONSENT DECREE

I. INTRODUCTION

A. Background

1. This Consent Decree is entered between the United States of America (“Plaintiff”) and Defendants: Pacific Homes, Pacific Properties and Development Corp., (“Developer”); Michael Milburn (“Architect”); (hereafter, Developer and Architect are jointly referred to as “Defendants,”), as well as Pacific Legends West Homeowners Association, Inc. (“Association”).¹

2. This action is brought by the United States to enforce the provisions of Title VIII of the Civil Rights Act of 1968 (“the Fair Housing Act”), as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C. §§ 3601-3619. Specifically, the United States’ Complaint alleges that Defendants discriminated against persons with disabilities by failing to design and construct covered multifamily dwellings with the features of accessible and adaptable design and construction required by 42 U.S.C. § 3604(f)(3)(C), at Pacific Legends West Condominiums (“Subject Property”), located at 1830 N. Buffalo Drive, in Las Vegas, Nevada. The United States, Defendants and the Association (“the Parties”) agree that the Subject Property is subject to the accessible design and construction requirements of 42 U.S.C. § 3604(f)(3)(C).

¹ In its Complaint, the United States also named Steven T. Molasky, Chairman and Chief Executive Officer of Pacific Homes and Pacific Properties and Development Corporation, and Milburn and Associates, an Arizona-chartered corporation of which Michael Milburn was President. Stipulations of dismissal of these two defendants shall be filed contemporaneous with the filing of this decree.

B. Defendants

3. Defendant Pacific Homes was the owner and developer of the Subject Property. Pacific Homes is incorporated and has its principal place of business in Nevada.

4. Defendant Pacific Properties and Development Corporation, a Nevada Corporation, developed the Subject Property.

5. At all times relevant to the United States' Complaint, Defendant Michael Milburn (Milburn) was President and CEO of Milburn and Associates, Inc. Milburn is the architect who designed the Pacific Legends West Condominiums. Milburn is licensed and has his principal place of business in Arizona.²

C. Rule 19 Party

6. Defendant Pacific Legends West Homeowners Association, Inc. owns the common and public use areas at the Subject Property. The Association is a non-profit corporation and has its principal place of business in Nevada. The Association has been named and joined in this action only as a necessary or indispensable party for purposes of having full relief pursuant to Rule 19 of the Federal Rules of Civil Procedure. The Association agrees to allow the modifications as set forth in this Consent Decree and in Appendix A and to facilitate, to the extent possible, the modifications set forth in Appendix B, attached hereto. The Association also agrees to complete

² At the time the Subject Property was designed, the Architect was employed by Milburn and Associates, Inc., an Arizona corporation doing business in Nevada. This corporation was dissolved on February 2001. Defendant Milburn represents that he is currently an employee of an architectural firm not related to this action, and does not have employees. The parties understand that the obligations of this Decree as to the Architect apply to Defendant Milburn only, and not to his current employers. If, during the term of this Decree, Defendant Milburn hires any person to complete work under his supervision or direction that is covered by 42 U.S.C. § 3604(f)(3)(C) ("future employees"), the terms of the Decree shall apply to those future employees as specifically noted herein.

certain modifications to the public and common use areas as specified in Appendix A, but in agreeing to do so is not admitting to liability for any violations alleged by the United States.

D. Relevant Requirements of the Fair Housing Act

7. The Fair Housing Act provides that, for non-elevator residential buildings with four or more dwelling units, all ground floor units that are designed and constructed for first occupancy after March 13, 1991, are “covered multifamily dwellings” and must include certain basic features of accessible and adaptable design to make such units accessible to or adaptable for use by a person who has or who develops a disability. 42 U.S.C. §§ 3604(f)(3)(C) and (f)(7)(B).

8. The accessible and adaptable design provisions of the Fair Housing Act require that for covered multifamily dwellings: (i) the public use and common use portions of such dwellings are readily accessible to and usable by persons with a disability; (ii) all the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by persons with a disability using wheelchairs; and (iii) all premises within such dwellings contain the following features of adaptive design: (I) an accessible route into and through the dwelling; (II) light switches, electrical outlets, thermostats, and other environmental controls in accessible locations; (III) reinforcements in bathroom walls to allow later installation of grab bars; and (IV) usable kitchens and bathrooms such that an individual using a wheelchair can maneuver about the space. 42 U.S.C. § 3604(f)(3)(C). These features are referenced in this document as the “Accessible Design Requirements.”

E. Alleged Violations at Subject Property

9. Pacific Legends West is comprised of 23 two-story buildings containing 210 two and three bedroom units, including 92 ground floor units, as well as public and common use areas, including parking areas, sidewalks, garbage receptacles, a mailroom, a clubhouse with a men’s

toilet room and showers, a women's toilet room and showers, a fitness center, a pool, and a sauna. The Subject Property's 210 units are "dwellings" within the meaning of 42 U.S.C. § 3602(b). All 92 ground floor units in the buildings at the Subject Property were designed and constructed for first occupancy after March 13, 1991. As such, these 92 ground-floor units are "covered multifamily dwellings" within the meaning of 42 U.S.C. § 3604(f)(7)(B) and must comply with the Fair Housing Act's design and construction requirements. In addition, the public and common use areas at the subject property must comply with the design and construction requirements of 42 U.S.C. § 3604(f)(3)(C).

10. The United States surveyed the Subject Property in March and April 2003 and identified alleged failures to meet the Accessible Design Requirements, including: 1) a failure to design and construct the public and common use areas so as to be readily accessible to and usable by a person with a disability because exterior routes have excessively steep running and cross slopes, lack curb ramps or have non-compliant curb ramps, and include steps; some common use areas have doors with thresholds higher than one-half inch and clubhouse features mounted so as to be inaccessible including the counters, oven, drop box, microwave, sinks, coat hooks, shower head, and paper towel dispensers; 2) a failure to design and construct the covered dwellings so as to be readily accessible to and usable by a person with a disability because the covered units lack the following features of accessible design: i) an accessible route into and through the dwelling as thirteen (13) covered units have steps on the route into the unit, in addition to the violations listed above in this paragraph; ii) reinforcements in bathroom walls in covered units to allow later installation of grab bars; and iii) useable kitchens and bathrooms, such that an individual using a wheelchair can manoeuver about the space, including adequate clear floor space beyond the swing of the door and an accessible approach to the kitchen sink.

F. Consent of the Parties to Entry of this Decree

11. Developer and Association have agreed to make modifications at the Subject Property to address the allegations of the Plaintiff, as set forth below in this Consent Decree and at

Appendices A and B.

12. The Parties agree that this Court has jurisdiction over the subject matter of this case pursuant to 28 U.S.C. §§ 1331 and 1345 and 42 U.S.C. § 3614(a). The Parties further agree that the controversy should be resolved without further proceedings and without an evidentiary hearing or trial.

13. The Defendants deny that they have violated the law, and this Consent Decree does not constitute any admission of liability on the part of any of the Defendants.

14. As indicated by the signatures appearing below, the Parties agree to entry of this Consent Decree.

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

II. GENERAL INJUNCTION

15. The Developer and each of its officers, employees, agents, successors, and assigns, and all other persons in active concert or participation with any of them, are enjoined from discriminating on the basis of disability as prohibited by the Fair Housing Act, 42 U.S.C. § 3604(f). The Architect, and any future employees, are enjoined from discriminating on the basis of disability as prohibited by the Fair Housing Act, 42 U.S.C. § 3604(f).

III. MODIFICATIONS

A. Access to Pacific Legends West

16. Pacific Legends West Homeowners Association agrees that it will cooperate with the Parties to facilitate implementation of this Consent Decree. The Association shall, *inter alia*,

allow access to the common and public use areas and facilitate, to the extent possible, access to the individual dwelling units at the Subject Property to allow planning, evaluating, and performing any modifications required under this Decree pursuant to the timetable set forth in this Decree. The Association also agrees to allow access to the Subject Property to allow any interviewing and/or meeting with the homeowners, residents or tenants at the Subject Property to aid in the implementation and/or completion of the purposes of this Decree.

B. Contribution by Architect Defendant to Developer Defendant for Modifications and Damages

17. Within 10 days of the entry of this Decree, the Architect shall pay to the Developer a sum agreed upon by the Architect and the Developer, such sum representing the Architect's complete and final contribution to the cost of the modifications set forth below and damages for alleged aggrieved persons as set forth in Section VIII. Within 10 days of receiving that payment, the Developer shall certify in writing to the United States that the Architect has satisfied this obligation. The parties agree that upon the Developer's certification, the Architect shall have no further obligations under Sections III and VIII, and Appendices A and B of this Decree.

C. Modifications

18. Plaintiff alleges that certain features of the ground-floor dwelling units and public and common use areas of the Subject Property do not meet the design and construction requirements of the Fair Housing Act. To address these alleged deficiencies, the Developer and the Association shall undertake modifying actions with respect to the public and common use areas and the covered ground-floor dwelling units to bring the Subject Property into compliance with

the Act and/or the Consent Decree, including Appendices A and B, as described herein.³ The Developer shall be responsible for all modifications listed in Appendices A and B unless specifically identified as the responsibility of the Association. Neither the Developer nor the Association shall be responsible for modifications assigned to the other in the event of non-performance.

19. Accessible Building Entrances on Accessible Routes and Accessible and Usable Public and Common Use Areas: As soon as reasonably possible after entry of the Consent Decree, but in any event not more than two hundred and ten (210) days from the date of the entry of this Consent Decree, the Developer shall finish the modifications to the covered dwelling unit entrances, the accessible routes and the public and common use areas of the Subject Property for which it is responsible as set forth herein and that remedy the alleged violations in Appendix A. The Developer shall pay all expenses associated with these modifications and shall attempt, in good faith, to minimize any inconvenience to the residents of the Subject Property.

20. The Association, as soon as reasonably possible after entry of the Consent Decree, but in any event not more than two hundred and ten (210) days from the date of the entry of this Consent Decree, shall finish the modifications to the public and common use areas of the Subject Property for which it is responsible as set forth herein and that remedy the alleged violations in Appendix A. The Association shall pay all expenses associated with these modifications and shall attempt, in good faith, to minimize any inconvenience to the residents of the Subject Property.

³ HUD regulations provide that “[a] public or common use area that complies with the appropriate requirements of ANSI A117.1-1986 or a comparable standard is accessible.” See 24 C.F.R. 100.201 (2002). HUD interprets “comparable standard” to mean a “standard that affords [persons with a disability] access essentially equivalent to or greater than that required by ANSI A117.1.” See 54 Fed. Reg. 3243 (Jan 23, 1989).

21. Within fifteen (15) days of the entry of this Decree, the Association shall provide the Developer and the United States a complete and accurate list of names and mailing addresses of all current Pacific Legends West homeowners and residents. Within thirty (30) days of receipt of this list, Developer shall provide written notice to each person on the list that the alleged violations specified at Appendix A will be modified in the public and common use areas at the subject property. Such notice shall conform to Appendix C. The Developer shall certify to the United States in writing that the notices have been distributed and the manner in which they were distributed within ten (10) days after such distribution.

22. Interior of Ground Floor Dwellings: Within fifteen (15) days from the date of the entry of this Consent Decree, the Association shall provide the Developer and the United States a complete and accurate list of names and mailing addresses of all current Pacific Legends West homeowners and tenants in ground floor dwellings. Within thirty (30) days of receipt of this list, Developer shall inform each person on the list in writing that: (1) the United States has alleged that the unit does not meet certain accessible and adaptive design requirements of the Act and Developer has agreed to modify certain features of the covered dwellings to make them more accessible; (2) the features of accessible and adaptive design can be installed in the unit upon request of the homeowner or tenant; (3) the modifications offered will be at no cost to the tenant or homeowner; and (4) the scheduling of the modifications will take into account the preferences and convenience of the homeowner and tenant; and (5) that relocation costs, if any, will be provided in advance. This notice shall be substantially equivalent to the form of Appendix D. The Developer shall certify to the United States in writing that the notices have been distributed and the manner in which they were distributed within ten (10) days after such distribution. To be eligible to have these modifications completed in his or her unit, the homeowner must

respond to the Developer or the United States within seventy five (75) days of the mailing of this notice, and that deadline shall be clearly specified in the notice.

23. If Developer receives a request from a homeowner of a ground floor dwelling to perform the modifications, Developer shall complete the modifications within forty-five (45) days from the date on which the modifications were requested, with such deadline being subject to the provisions of Section XI. The Developer shall pay all expenses associated with these modifications.

24. The United States is not limited in its own efforts to identify any homeowners or tenants of ground floor dwellings requesting modifications.

25. Minimizing Inconvenience to Tenants/Homeowners: Developer shall endeavor to minimize inconvenience to the tenants and homeowners in scheduling and performing the modifications to ground floor units. In the event a resident of a unit scheduled to undergo a modification incurs undue inconvenience or hardship (defined as a dislocation from the unit for more than twenty-four (24) hours consecutively), the Developer will pay such resident the applicable government per diem rate for food and lodging for the local area for each day of undue inconvenience or hardship. Such payment shall be made prior to the commencement of any retrofit work on the resident's unit, so that the resident may use the money to obtain alternative living accommodations while dislocated.

D. Neutral Inspector

26. Developer shall enter into a contract with a neutral inspector approved by the United States (hereinafter "Inspector") to conduct on-site inspections of the modifications that have been performed under this Decree by both the Developer and the Association to determine if the modifications have been completed in accordance with the specifications set out in Appendices

A and B. Such inspector shall have expertise in the design and construction requirements of the Fair Housing Act and its implementing regulations, the Fair Housing Accessibility Guidelines (“Guidelines”) 56 Fed. Reg. 9472 (1991), and ANSI A117.1 (1986). Where Appendices A and B indicate that the modification is to be “compliant” or “accessible,” the neutral inspector shall interpret these terms consistent with the requirements of the Guidelines and/or ANSI A117.1 (1986), as specifically indicated in each Appendix. As a part of that contract, the neutral inspector will take digital photographs as needed of the measurements that he or she has taken to determine compliance with the specifications set out in Appendices A and B, and will make those photographs available as part of his or her report.

27. The inspections shall take place within sixty (60) days of the completion of all of the modifications to units and public and common use areas as required by this Decree modifying the alleged violations in Appendices A and B. Developer shall give the United States at least twenty-one (21) days notice of the inspections and shall give the United States and the Association an opportunity to have its representative present for the inspections.

28. The Inspector shall set out the results of each inspection, including deficits, if any, in writing, and shall send that report by mail and fax to counsel for the United States,⁴ the Developer and the Association. If the inspection indicates that not all of the required modifications have been made in accordance with the Decree and as specified in Appendices A and B, the Developer or the Association shall correct the deficiencies for which they are responsible within a reasonable period of time as determined by the Inspector, and the Developer

⁴ For purposes of this Decree, all submissions to the United States or its counsel should be submitted to: Chief, Housing and Civil Enforcement Section, Civil Rights Division, United States Department of Justice, 950 Pennsylvania Avenue, N.W., Washington, D.C. 20530, Attn: DJ# 175-46-107, Fax: 202-514-1116, or as otherwise directed by the United States.

shall pay for another inspection by the same Inspector to certify that the deficiencies have been corrected. This process shall continue until the Inspector certifies that all of the necessary modifications have been made.

29. The Developer shall pay all fees and costs associated with these inspections, and such payments shall be made without regard to the Inspector's findings. Upon reasonable notice to the Developer, representatives of the United States shall be permitted to inspect the modifications made by the Developer in accordance with this Consent Decree to ensure compliance.

30. The Pacific Legends West Homeowners Association agrees to allow the inspector and representatives of the United States access to the Subject Property for the purposes of inspecting the modifications and any corrections thereto. The Association agrees to abide by the final decision of the inspector(s) approved by the United States and the Developer as to whether the work has been done in accordance with the requirements of this Consent Decree.

IV. NON-DISCRIMINATION IN FUTURE DESIGN AND CONSTRUCTION

31. For two years from the date of entry of this Consent Decree, the Developer shall maintain and provide to the United States the following information and statements regarding any covered multifamily dwellings intended to be purchased, developed, built, designed, and/or engineered in whole or in part, by it or by any entities in which it or its successors in interest have a position of control as an officer, director, member, or manager, or have a ten percent (10%) or larger ownership share:

- a. The name and address of the project;
- b. A description of the project and the individual units;

- c. The name, address and telephone number of any site engineer(s) and/or civil engineer(s) involved with the project;
- d. A statement from all site engineer(s) and/or civil engineer(s) involved with the project acknowledging and describing his/her knowledge of and training in the requirements of Section 804(f)(3)(C) of the Fair Housing Act and in the field of accessible site design and certifying that he or she has reviewed the engineering documents for the project and having made reasonable inquiry into all related facts and circumstances that to the best of his or her knowledge the design specifications therein comply with the requirements of the Fair Housing Act and the Guidelines;
- e. The name, address and telephone number of the architect(s) involved with the project; and
- f. A statement from the architect(s) involved with the project acknowledging and describing his or her knowledge of and training in the requirements of Section 804(f)(3)(C) of the Fair Housing Act and in the field of accessible housing and site design and certifying that he or she has reviewed the architectural plans for the project and having made reasonable inquiry into all related facts and circumstances that to the best of his or her knowledge the design specifications therein comply with the requirements of the Act and Guidelines.

The Developer shall provide such information to the United States sixty (60) days after entry of this Decree, one (1) year after entry of this Decree, and (2) years after the date of entry of this Decree. If any engineering documents or architectural plans are revised, and the revisions could have any impact on the accessibility of the dwellings or complex, the Developer shall obtain and maintain, and provide to the United States upon request, a statement from the site engineer(s)

and/or architect(s), as applicable, that all specifications in the revised engineering documents or architectural plans, as pertinent, comply with the requirements of the Fair Housing Act and the Guidelines.

32. In signing this Decree, the Architect certifies that he is not currently designing any dwellings that are subject to 42 U.S.C. § 3604(f)(C)(3) and has no present intention to do so. For two years from the date of entry of this Decree, the Architect shall notify the United States if he has designed or is designing covered multi-family housing and shall provide to the United States all information described in ¶ 31(a)-(f). If the Architect prepares any architectural or site plans, drawings or blueprints for covered multi-family housing, he shall include on such plans drawings or blueprints a statement that to the best of his knowledge such comply with the Fair Housing Act.

V. EDUCATIONAL PROGRAM

33. Within 30 days of the entry of this Decree, the Developer shall provide a copy of this Decree to all their agents and employees with supervisory responsibility for the design or construction of covered multifamily dwellings and secure the signed statement from each agent or employee acknowledging that he or she has received and read the Decree, and has had an opportunity to have questions about the Decree answered. This statement shall be substantially similar to the form of Appendix E.

34. During the term of this Decree, within 30 days after the date he or she commences an agency or employment relationship with the Developer, each new agent or employee with supervisory responsibility for the design or construction of covered multifamily dwellings shall be given a copy of this Decree and be required to sign the statement acknowledging that he or she has received and read the Decree, and has had an opportunity to have questions about the

Decree answered. This statement shall be substantially similar to the form of Appendix E, and shall be forwarded to the United States with 30 days of being signed by the employee.

35. The Developer shall also ensure that they and any other employees and agents who have supervisory responsibility for the design and/or construction of covered multifamily dwellings have a copy of, are familiar with, and personally review, the Fair Housing Accessibility Guidelines, 56 Fed. Reg. 9472 (1991) and the United States Department of Housing and Urban Development, Fair Housing Act Design Manual, *A Manual to Assist Builders in Meeting the Accessibility Requirements of the Fair Housing Act*, (August 1996, Rev. April 1998). The Developer and all employees and agents whose duties, in whole or in part, involve the management, sale and/or rental of multifamily dwellings at issue in this case shall be informed of those portions of the Fair Housing Act that relate to accessibility requirements, reasonable accommodations and reasonable modifications. The Developer shall sign a statement affirming that they have complied with the requirements of this paragraph and submit it to the United States within 30 days of the entry of this Decree.

36. Within thirty (30) days of the date of entry of this Consent Decree, the Developer shall identify to the United States all employees and agents of the Developer whose duties involve supervisory responsibility for the development, design and/or construction of multifamily dwellings, and for each employee or agent identified, certify: (1) whether that employee or agent has undergone training on the design and construction requirements of the Fair Housing Act within the past three (3) years; (2) the date of the training; and (3) the name of the individual/organization providing the training.

37. Within one hundred eighty (180) days of the date of entry of this Consent Decree, all employees and agents identified as not having been trained on the design and construction

requirements of the Fair Housing Act within the past three (3) years, shall be provided this training by a qualified third-party, who is unconnected to the Developer or their employees, agents or counsel, and approved by the United States. All expenses associated with this training shall be borne by the Developer. The Developer shall provide to the United States, within thirty (30) days after the training, the name(s), address(es) and telephone number(s) of the trainer(s); copies of the training outlines and any materials distributed by the trainer(s); and certifications executed by each Defendant and covered employees and agents confirming their attendance, in a form substantially equivalent to Appendix F.

38. In signing this Decree, the Architect certifies that he is not currently designing any dwellings that are subject to 42 U.S.C. § 3604(f)(C)(3) and has no present intention to do so. Based on that certification, the Architect is not subject to the requirements of this Section. In the event that the Architect does agree to design a covered, multi-family dwelling during the period of this Decree, the Architect shall notify the United States and shall undergo a training on the design and construction requirements of the Fair Housing Act prior to beginning any work on the project. This training shall be provided by a qualified third-party, who is unconnected to the Architect or any future employees, agents or counsel, and approved by the United States, and consistent with the requirements of this Section. All expenses associated with this training shall be borne by the Architect. The Architect shall provide to the United States, within thirty (30) days after the training, the name(s), address(es) and telephone number(s) of the trainer(s); copies of the training outlines and any materials distributed by the trainer(s); and certifications executed by the Architect confirming his attendance, in a form substantially equivalent to Appendix F.

VI. PUBLIC NOTICE OF NON-DISCRIMINATION POLICY

39. Within ten (10) days of the entry of this Consent Decree, the Developer shall post and prominently display in any sales or rental offices of all dwellings owned or operated by them, if any, and in any other place in which persons may inquire about renting or purchasing dwellings from the Developer, the federal Fair Housing Poster, no smaller than ten (10) by fourteen (14) inches, as described by 24 C.F.R. 110.15 and 110.25, indicating that all dwellings are available for rental on a non-discriminatory basis.

40. For the duration of this Decree, in all future advertising in newspapers where the advertisement is more than two (2) square inches, on pamphlets, brochures and other promotional literature, and on any internet website regarding the Subject Property or any future covered multifamily dwelling complexes that the Developer may develop or construct, the Developer shall place, in a conspicuous location, a statement that the dwelling units include features for persons with disabilities required by the federal Fair Housing Act.

41. In signing this Decree, the Architect certifies that he is not currently designing any dwellings that are subject to 42 U.S.C. § 3604(f)(C)(3) and has no present intention to do so. Based on that certification, the Architect is not subject to the requirements of this Section. In the event that the Architect, or any future employee of the Architect, do design a covered, multi-family dwelling during the period of this Decree, the Architect shall comply with the advertising requirements of this Section.

VII. ADDITIONAL MONITORING REQUIREMENTS

42. For the duration of this Decree, Developer shall advise counsel for the United States in writing within thirty (30) days of receipt of any written or verbal complaints against it, its employees or agents, regarding housing discrimination on the basis of disability under the Act. For the duration of this Decree, Architect shall advise counsel for the United States in writing

within thirty (30) days of receipt of any written or verbal complaints against him or his future employees, if any, regarding housing discrimination on the basis of disability under the Act.

Defendants shall also promptly provide the United States all information it may request concerning any such complaint. Within fifteen (15) days of the resolution of any such complaints, Defendants shall advise counsel of the United States of such resolution.

43. For the duration of this Decree, Developer is required to preserve all records related to this Decree regarding the Subject Property and all future covered multifamily dwellings to be designed, constructed, owned, operated or acquired by them. Upon reasonable notice to Developer, representatives of the United States shall be permitted to inspect and copy any of Developers' records or inspect any future covered dwelling or any future covered public and common use areas under Developers' control at reasonable times so as to determine compliance with the Consent Decree.

44. In signing this Decree, the Architect certifies that he is not currently designing any dwellings that are subject to 42 U.S.C. § 3604(f)(C)(3) and has no present intention to do so. Based on that certification, Architect is only required to preserve all records related to this Decree regarding the Subject Property. In the event that the Architect, or any future employee of the Architect, do design covered, multi-family dwellings during the period of this Decree, the Architect shall be required to preserve all records related to those dwellings. Upon reasonable notice to Architect, representatives of the United States shall be permitted to inspect and copy any of Architect's records or inspect any future covered dwelling or any future covered public and common use areas under Architect's control at reasonable times so as to determine compliance with the Consent Decree.

VIII. COMPENSATION OF ALLEGED AGGRIEVED PERSONS

45. The Developer shall pay the total sum of \$100,000.00 to the following alleged aggrieved persons identified by the United States: Troy Mikels; Robert and Eleanor Alvord; Gab Fryshdorf; Kenneth and Ginger Herold; Iris Hansen; and Deanna and William Mackie.

46. The Developer shall send a check payable to each of the aggrieved persons in the amounts determined by the United States, and not to exceed in total the amount indicated in the preceding paragraph, within thirty (30) days of the date of entry of this Decree to the United States.⁵ No amount shall be paid pursuant to this paragraph before each of the aggrieved persons has executed the written release of all claims, legal or equitable, that he or she might have against the Developer or the Architect relating to the claims asserted in this lawsuit, set out in Appendix G. If an aggrieved person, identified above by the United States, declines to execute a written release, then the check payable to the declining aggrieved person shall be returned to the Developer.

IX. DURATION OF DECREE AND TERMINATION OF LEGAL ACTION

47. This Consent Decree shall remain in effect for two years and six months after the date of its entry.

48. The Court shall retain jurisdiction for the duration of this Consent Decree to enforce the terms of the Decree, after which time the case shall be dismissed with prejudice. The United States may move the Court to extend the duration of the Decree in the interests of justice.

49. The United States, Defendants, and the Association shall endeavor in good faith to resolve informally any differences regarding interpretation of, and compliance with, this Decree

⁵ If any of the payments required under this Decree are made after the prescribed time, for whatever reason, such payments shall include interest from the prescribed time of payment, calculated by the formula set forth in 28 U.S.C. § 1961. Payment of such interest shall be in addition to any other remedies available to the United States for delays in payment.

prior to bringing such matters to the Court for resolution. However, in the event of a failure by Defendants or the Association 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 attorney's fees which may have been occasioned by the violation or failure to perform.

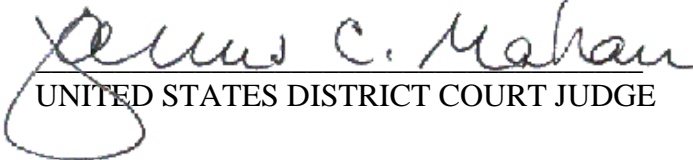
X. TIME FOR PERFORMANCE

50. Any time limits for performance imposed by this Consent Decree may be extended by the mutual written agreement of the United States, relevant Defendants, and/or the Association.

XI. COSTS OF LITIGATION

51. Each party to this litigation will bear its own costs and attorney's fees associated with this litigation.

SO ORDERED this 23rd day of May, 2007.


UNITED STATES DISTRICT COURT JUDGE

Agreed to by the parties as indicated by the signatures appearing below:

For the United States:

Date: May 11, 2007

Steven W. Myhre
Acting United States Attorney
for the District of Nevada

WAN J. KIM
Assistant Attorney General

Blaine T. Welsh
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*For Defendants Pacific Homes and
Pacific Properties and Development Corp.:*

/s/ Theresa L. Kitay

Date: May 11, 2007

Theresa L. Kitay
Attorney at Law
578 Washington Blvd.
Suite 836
Marina del Rey, CA 90292

For Defendant Michael Milburn:



Michael Milburn, Architect

Date: 5/11/07

For Pacific Legends West Homeowners Association, Inc.:

Karen Weber-President Date: 3 May 2007
Name and Title

APPENDIX A

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	C.A. No.: 2:05-CV-1366-JCM-LRL
v.)	
)	
PACIFIC HOMES; PACIFIC PROPERTIES)	
AND DEVELOPMENT CORP.;)	
STEVEN MOLASKY; MILBURN AND)	
ASSOCIATES, INC.; MICHAEL MILBURN)	
and PACIFIC LEGENDS WEST HOMEOWNERS)	
ASSOCIATION, INC.,)	
)	
Defendants.)	
_____)	

**ACCESSIBILITY MODIFICATIONS TO THE PUBLIC AND COMMON USE AREAS
AT PACIFIC LEGENDS WEST**

Defendants Pacific Homes and Pacific Properties and Development Corp. shall be responsible for taking all corrective actions pertinent to the public and common use areas at the Subject Property specified as follows, except Items #7, 12, 14, 17, 19, 22, 23, 131, and 157 which shall be the responsibility of the Association.

APPENDIX B

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	C.A. No.: 2:05-CV-1366-JCM-LRL
v.)	
)	
PACIFIC HOMES; PACIFIC PROPERTIES)	
AND DEVELOPMENT CORP.;)	
STEVEN MOLASKY; MILBURN AND)	
ASSOCIATES, INC.; MICHAEL MILBURN)	
and PACIFIC LEGENDS WEST HOMEOWNERS)	
ASSOCIATION, INC.,)	
)	
Defendants.)	
_____)	

**ACCESSIBILITY MODIFICATIONS TO DWELLING UNIT INTERIORS OF GROUND
FLOOR UNITS AT PACIFIC LEGENDS WEST**

Defendants Pacific Homes and Pacific Properties and Development Corp. shall be responsible for taking all corrective actions pertinent to the dwelling unit interiors of ground floor units at the Subject Property, specified as follows:

APPENDIX C

NOTICE OF MODIFICATIONS TO PUBLIC AND COMMON USE AREAS AT PACIFIC LEGENDS WEST

Pacific Legends West Condominiums is dedicated to the principle of equal housing opportunity. The federal Fair Housing Act requires that the public and common use areas at complexes such as Pacific Legends West Condominiums have certain features of physical accessibility for persons with disabilities.

The Developer and the Architect of Pacific Legends West are notifying you that as a result of recent events, inaccessible aspects of the public and common areas of Pacific Legends West have been brought to our attention. Persons with disabilities are welcomed as homeowners, residents and guests at Pacific Legends West Condominiums. The Developer, the Architect, and Pacific Legends West Homeowners Association are writing this notice to let you know that beginning on _____, 2007, workers will be coming onto the property to begin the process of modifying certain aspects of the public and common use areas. We expect the process to last approximately _____ weeks.

Generally, the workers will modify or "retrofit" certain sidewalks, install curb cuts and ramps or modify existing ones, eliminate some of the steps along certain pathways to certain ground-floor units, and install lever hardware on the outside doors to dwelling units. They will also be making some modifications to the clubhouse and common use areas to make them more accessible to persons with disabilities. We apologize for any inconveniences you may incur as a result of this work.

If you have any questions regarding these modifications, please contact us at _____.

APPENDIX D

**NOTICE OF MODIFICATIONS TO GROUND-FLOOR UNIT INTERIORS
AT PACIFIC LEGENDS WEST CONDOMINIUMS**

Pacific Legends West Condominiums is dedicated to the principle of equal housing opportunity. The federal Fair Housing Act requires that ground floor units in newer communities have certain features of physical accessibility for people with disabilities. Your unit has been identified as one that is covered by the Fair Housing Act's accessibility requirements.

Working with the original developer and architect of this complex, and with the Pacific Legends West Homeowners Association, the United States Department of Justice has identified alleged accessibility issues in individual ground floor units at Pacific Legends West. The original builder and architect have agreed to modify certain features of your condominium to make them more accessible to persons with disabilities.

This is notice to you that as a homeowner, you may request that the modifications be made to your unit without expense to you. Should the modifications require your temporary relocation, the original builder and architect will pay reasonable relocation and housing expenses while the modifications are being made. The scheduling of the modifications will take into account the preferences and convenience of you, the homeowner and/or tenant, and relocation costs, if any, will be provided in advance.

Depending on the particular features of your unit, the available alterations may require modifications such as providing more clear floor space in front of and/or adjacent to kitchen and bathroom fixtures. The modifications available for your unit include:

[ITEMIZE]

[TO BE DETERMINED]

It is not necessary that you or any member of your household have a disability in order to request these modifications.

To request these modifications to your unit, you should respond either by telephone or in writing to this letter as soon as possible, **but you MUST respond no later than _____, 2007 [75 days the date of the mailing of this notice].**

If you would like to request these modifications or have any questions, please contact us at _____ or return this letter indicating your request to the addresses below:

_____ YES. I request that the accessibility modifications be made to my unit.

Send to:

Developer
[ADDRESS]
ATTN:

and

United States Department of Justice
Civil Rights Division
Housing and Civil Enforcement Section
950 Pennsylvania Avenue, NW - NWB G St.
Washington, D.C. 20530
ATTN: DJ# 175-46-107

You may also call the **United States Department of Justice at 1-800-896-7743**, or fax us at 202-514-1116, for information.

APPENDIX E

ACKNOWLEDGMENT OF RECEIPT OF CONSENT DECREE

On _____, I received copies of and have read the Consent Decree entered by the federal district court in United States v. Pacific Properties and Development Corp., Pacific Homes, Steven L. Molasky , Michael Milburn, Milburn and Associates, Inc., and Pacific Legends West Homeowners Association Inc., C.A. No.: 2:05-CV-1366-JCM-LRL (D. Nev.). I have had all of my questions concerning the Consent Decree and the Fair Housing Act answered to my satisfaction.

(Signature)

(Print name)

(Position)

(Date)

APPENDIX F

CERTIFICATION OF FAIR HOUSING TRAINING

On _____, I attended training on the federal Fair Housing Act, including its requirements concerning physical accessibility for people with disabilities. I have had all of my questions concerning the Fair Housing Act answered to my satisfaction.

(Signature)

(Print name)

(Position)

(Date)

APPENDIX G

RELEASE OF ALL CLAIMS

In consideration of and contingent upon the payment of the sum of _____ dollars (\$ _____), pursuant to the Consent Decree entered in United States v. Pacific Properties and Development Corp., Pacific Homes, Steven L. Molasky, Michael Milburn, Milburn and Associates, Inc., and Pacific Legends West Homeowners Association, C.A. No.: 2:05-CV-1366-JCM-LRL (D. Nev.), United States District Court, District of Nevada, I hereby release and forever discharge the Defendants named in this action from any and all liability for any claims, legal or equitable, I may have against them arising out of the issues alleged in this action as of the date of the entry of that Consent Decree. I fully acknowledge and agree that this release of the Defendants shall be binding on my heirs, representatives, executors, successors, administrators, and assigns. I hereby acknowledge that I have read and understand this release and have executed it voluntarily and with full knowledge of its legal consequences.

 (Signature)

NAME: _____

ADDRESS: _____

DATE: _____