

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF IDAHO

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
and)	
)	Case No.: 4:07-cv-500
INTERMOUNTAIN FAIR HOUSING)	
COUNCIL,)	
)	
Plaintiff/Intervener,)	
)	
v.)	
)	
STEALTH INVESTMENTS, LLC.;)	
BMT INVESTMENTS, LLC.;)	
STEVEN BARRY WOODHOUSE,)	
)	
Defendants.)	

CONSENT DECREE

I. INTRODUCTION

On November 21, 2007, the United States of America (“United States”) filed this action against Stealth Investments, LLC (“Stealth Investments”), BMT Investments, LLC (“BMT Investments”), and Steven Barry Woodhouse (“Mr. Woodhouse”) (collectively referred to herein as “Defendants”) to enforce the provisions of Title VIII of the Civil Rights Act of 1968 (“the Fair Housing Act” or “the FHA”), as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C. §§ 3601 et seq. The United States brought this complaint following a Determination of Reasonable Cause and Charge of Discrimination issued by the Secretary of Housing and Urban

Development and a timely notice of election filed by the complainant, Intermountain Fair Housing Council (“IFHC”). See 42 U.S.C. §§ 3612(a). On January 3, 2008, IFHC filed a Motion to Intervene, which was granted by the court on February 4, 2008.

The United States alleges that Defendants refused to make reasonable accommodations for persons with disabilities in violation of 42 U.S.C. §§ 3604(c) and (f)(1)–(f)(3), and made, printed, or published a notice or statement with respect to the rental of a dwelling that indicated a preference, limitation, or discrimination based on handicap, in violation of 42 U.S.C. §§ 3604(c) of the Act. The United States further alleges that Defendants’ conduct as described above constitutes a pattern or practice of resistance to the full enjoyment of rights granted by the Act; and a denial to a group of persons of rights granted by the Act, which denial raises an issue of general public importance, in violation of 42 U.S.C. § 3614(a). Specifically, the United States alleges that Defendants engaged in housing practices that discriminate on the basis of disability, including refusing to allow residents with disabilities to keep service dogs at Shadow Canyon Apartments, which is a 77-unit apartment complex located in Idaho Falls, Idaho.

IFHC is a non-profit corporation located at 350 N. 9th Street, Suite M200, Boise, Idaho 83702, and organized under the laws of the State of Idaho. IFHC promotes fair housing practices for housing providers and consumers throughout Idaho. IFHC’s purpose is to advance equal access to housing for all persons without regard to race, color, sex, religion, national origin, familial status, or disability. Stealth Investments is a limited liability company organized in Idaho. Stealth Investments purchased Shadow Canyon Apartments on January 1, 2006. BMT Investments is a limited liability company organized in Idaho. BMT Investments assumed

management duties for Shadow Canyon Apartments on or before January 1, 2006. Mr. Woodhouse is employed by BMT Investments and is the onsite manager for Shadow Canyon Apartments. Mr. Woodhouse was the onsite manager when IFHC tested the complex.

The United States, Plaintiff Interveners, and the Defendants (hereinafter, “the Parties”) agree that Shadow Canyon Apartments are “dwellings” within the meaning of 42 U.S.C. § 3602(b). The parties agree that this Consent Decree shall apply to and govern all properties currently owned or managed in whole or in part by the Defendants, including but not limited to Shadow Canyon Apartments, and any properties the Defendants may acquire, own, or manage, in whole or in part, during the term of this Decree (hereinafter “Rental Properties”).¹ The parties agree that, in the interest of conserving time and expense, this matter should be resolved without further litigation. Therefore, as indicated by the signatures below, the parties agree to the entry of this Consent Decree. This Consent Decree constitutes full resolution of the United States’ and Plaintiff-Intervener’s claims that Defendants engaged in a pattern or practice of discrimination on the basis of disability.

THEREFORE, it is hereby ORDERED, ADJUDGED and DECREED:

II. GENERAL INJUNCTION

1. Defendants, their agents, employees, and all other persons in active concert or participation with them, are hereby enjoined from:
 - A. discriminating in the sale or rental, or from otherwise making unavailable or

¹ The term “Rental Properties” refers to all rental properties owned and managed by Defendants which are used or intended to be used as dwellings as defined by 42 U.S.C. 3602(b). A list is attached hereto as Attachment C.

denying a dwelling to any buyer or renter because of a handicap as prohibited by the Fair Housing Act, 42 U.S.C. § 3604(f)(1);

- B. discriminating against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a handicap as prohibited by the Fair Housing Act, 42 U.S.C. § 3604(f)(2);
- C. refusing to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling as required by the Fair Housing Act, 42 U.S.C. § 3604(f)(3)(B); and
- D. making, printing, or publishing a notice or statement with respect to the rental of a dwelling that indicates a preference, limitation, or discrimination based on handicap, in violation of 42 U.S.C. § 3604(c).

III. AFFIRMATIVE RELIEF

- 2. No later than 30 days after the date of entry of this Consent Decree, Defendants shall adopt and implement a written policy that permits a resident at Defendants' Rental Properties with a disability, as defined in section 802(h) of the Act, 42 U.S.C. § 3602(h),² to keep an assistance animal in his or her rental property and on the premises.
 - A. For the purposes of this section:

² Although the FHA refers to the protected class as persons with "handicaps," the term "disabilities" is synonymous and generally preferred. See Bragdon v. Abbott, 524 U.S. 624, 631 (1998).

- i. An “assistance animal” means an animal that does work or performs tasks for the benefit of a person with a physical disability or that ameliorates the effects of a mental or emotional disability, and
 - ii. A “licensed health professional” means a person licensed by a public regulatory authority to provide medical care, therapy or counseling to persons with mental or emotional disabilities, including, but not limited to, doctors, physician assistants, psychiatrists, psychologists, or social workers.
- B. The policy may be conditioned on the fact that the resident has requested an assistance animal based on his or her disability.
- C. In the case of an assistance animal that ameliorates the effects of a mental or emotional disability, the policy may be conditioned upon the need for documentation with a statement from a licensed health professional indicating:
- i. That the applicant has a mental or emotional disability, and
 - ii. That the designated animal would ameliorate the effects of the disability.
- D. In the case of an assistance animal that does work or performs tasks for the benefit of a person with a physical disability, the policy may be conditioned upon the need for documentation:
- i. That the animal has been individually trained to do work or perform tasks for the benefit of an individual with a disability, or
 - ii. That the animal, despite lack of individual training, is able to do work or

perform tasks for the benefit of an individual with a disability.

- E. In the case of an assistance animal which both ameliorates the effects of a mental or emotional disability and does work or performs tasks for the benefit of a person with a physical disability, the policy may require compliance with either paragraph 2(C) or 2(D), above, but not both.
 - F. The policy may not be conditioned upon compliance with any of the following requirements:
 - i. In the case of an assistance animal that ameliorates the effects of a mental or emotional disability, that the animal have been trained or have a certification of its efficacy, or
 - ii. That the resident pay any fee, deposit, or other charge for keeping the animal.
3. Defendants shall, not later than 10 days after adoption, notify in writing each resident of Defendants' Rental Properties of the adoption and implementation of the policy referred to in paragraph 2, above. The notification shall be sent via first-class mail, postage pre-paid, to the head of the household.
4. Defendants shall, not later than 10 days after the adoption of the policy referenced in paragraph 2, apprise each employee, agent, or any other persons who have responsibility for the management of Defendants' Rental Properties of such persons' obligations under this Consent Decree, including but not limited to paragraph 2 of this Consent Decree, and under the Fair Housing Act, 42 U.S.C. §§ 3601-19. Defendants shall furnish each such

employee, agent, or other person covered by this paragraph with a copy of this Consent Decree. Each employee, agent, or other person covered by this paragraph shall sign a statement in the form of Attachment A acknowledging that he or she has received, read, and understood this Consent Decree, and declaring that he or she will perform his or her duties in accordance with this Consent Decree and the Fair Housing Act, 42 U.S.C. §§ 3601-3619.

5. New employees or new agents who have responsibilities related to the management or rental of Defendants' Rental Properties shall (a) be apprised of the contents of this Consent Decree, including but not limited to paragraph 2 of this Consent Decree, and of their obligations under the Fair Housing Act, 42 U.S.C. §§ 3601-3619, when their employment or agency commences; (b) be provided copies of this Consent Decree and the policy required by paragraph 2 of this Consent Decree; and (c) execute the statement appended hereto as Attachment A no later than five days following their first day of employment or agency.
6. Within 30 days of the entry of this Consent Decree, Defendants shall post and prominently display in each and every location where activity related to the management or rental of Defendants' Rental Properties occurs a poster no smaller than 11 inches by 14 inches that indicates that all dwellings are available for rent on a nondiscriminatory basis. The poster(s) shall comply with the requirements set out in 24 C.F.R. Part 110.
7. Within 30 days of the entry of this Consent Decree, in all advertising conducted by the Defendants related to Defendants' Rental Properties in newspapers, telephone directories,

radio or other media, and on all signs, pamphlets, brochures, and other promotional literature, Defendants shall include the words “Equal Housing Opportunity,” the fair housing logo, and/or the following sentence:

We are an equal opportunity housing provider. We do not discriminate on the basis of race, color, national origin, religion, sex, familial status, or disability.

The words or logo shall be prominently placed and easily legible.

IV. MANDATORY EDUCATION AND TRAINING

8. Within 90 days of the entry of this Consent Decree, Defendants, employees, agents, or any other persons who have responsibilities related to the management or rental of Defendants’ Rental Properties shall attend, at Defendants’ expense, a training program regarding the disability discrimination provisions of federal, state, and local fair housing laws. The training shall be conducted by a qualified third party, approved by the United States, and unconnected to Defendants, employees, agents, or counsel.
9. Defendants must notify the United States of the name(s), address(es), and telephone number(s) of the trainer(s) as well as the time and location of each such training program at least 30 days prior to the program.

V. REPORTING AND RECORD-KEEPING REQUIREMENTS

10. Defendants shall, no later than 15 days after occurrence, provide to the United States notification and documentation of the following events:³

³ All notifications required by this Consent Decree to be sent to the United States or counsel for the United States shall be addressed to “Chief, Housing and Civil Enforcement Section, Matter No. 175-22-49” and sent both via facsimile, to (202) 514-1116, and USPS first-class mail, to U.S. Department of Justice, Civil Rights Division, Housing and Civil Enforcement

- A. The adoption and implementation of the policy referred to in paragraph 2, above, to be documented by a complete statement of the rules and regulations of Defendants' Rental Properties;
- B. The written notification to residents of Defendants' Rental Properties, required in paragraph 3, above;
- C. The executed copies of Attachment A;
- D. The training attended pursuant to paragraph 8, including a certification executed by the trainer(s) confirming attendance;
- E. A copy of the sign that was posted indicating that dwellings are available for rent on a nondiscriminatory basis, as set forth in paragraph 6;
- F. Any change in Defendants' rules or practices affecting the keeping of animals by residents of Defendants' Rental Properties;
- G. Any denial by Defendants of a request by a resident to keep an animal at Defendants' Rental Properties pursuant to the exception referred to in paragraph 2, above, including the resident's name, address, and telephone number and details of the request and the reason(s) for its denial; and
- H. Any written or oral complaint against the Defendants regarding discrimination on the basis of disability, including a copy of the written complaint itself or a written summary of a oral complaint and the name, address, and telephone number of the complainant. The Defendants shall also promptly provide the United States

Section, The Northwestern Building, 950 Pennsylvania Ave. NW, Washington, D.C. 20530.

information concerning the complaint's resolution.

11. Defendants shall submit annually on the anniversary date of the entry of this Consent Decree a written report that includes the following information:
- A. The information requested in paragraph 10, above, if not yet reported;
 - B. For every request made to keep an animal pursuant to the policy referred to in paragraph 2, above, during the preceding year:
 - i. The name and address of the requester;
 - ii. The date of the request;
 - iii. The kind of animal requested and the type of disability the animal was requested to treat;
 - iv. All documents provided to the Defendants in support of this request, including documents provided pursuant to paragraphs 2(C) and 2(D) of this Consent Decree; and
 - v. The disposition of the request.
 - C. The purchase, inheritance, or acquisition by Defendants of an ownership or management interest in any rental property which is used or intended to be used as a dwelling as defined by 42 U.S.C. § 3602(b),⁴ and any sale, transfer, or other disposition of any interest in Defendants' Rental Properties, including the identity

⁴ If the Defendants identify any additional rental property in which they have an ownership or management interest, that rental property will be deemed to be added to the list of rental properties provided in Attachment C at the time the Defendants acquire the interest and therefore will be considered part of the term "Rental Properties" as used in this Consent Decree. See fn. 1.

of the purchaser(s) or person(s) to whom the interest is being transferred; and

- D. A sample of any new leases executed for Defendants' Rental Properties, identifying any changes in the portion of the lease that outlines Defendants' pet policy.
12. For the duration of this Consent Decree, Defendants shall preserve all records relating to the following:
- A. Complaints against Defendants or Defendants' agents or employees of discrimination in housing on the basis of disability;
 - B. All rental records maintained in the normal course of Defendants' business – including, but not limited to, inquiry logs, applications, tenant files, leases, and all records relating to actual or threatened evictions – created from the date of the entry of this Consent Decree;
 - C. Any advertising conducted by the Defendants pursuant to paragraph 7; and
 - D. The receipt and processing of requests for reasonable accommodation of animals by residents of Defendants.
13. Upon reasonable notice to Defendants, the United States Department of Justice shall be permitted to inspect and copy any of Defendants' records relating to Defendants' compliance with the terms of this Consent Decree, provided, however, that the United States Department of Justice shall endeavor to minimize any inconvenience and administrative burden to the Defendants from such inspections.

VI. PAYMENT OF MONETARY DAMAGES

14. The Defendants shall, within 10 days of the Court's order, deliver to the United States a check payable to Joseph Tuma for FIFTEEN THOUSAND DOLLARS (\$15,000). When counsel for the United States has received the check from Defendants payable to Joseph Tuma and a signed release in the form of Attachment B from Joseph Tuma, counsel for the United States shall deliver the check to Joseph Tuma and the original, signed release to counsel for Defendants. Joseph Tuma shall not be paid until he has executed and delivered to counsel for the United States the release at Attachment B. Delivery of the check shall constitute Defendants' full monetary payment due to Joseph Tuma.
15. Within ten (10) days after the date of this Decree, Counsel for IFHC shall deliver to Defendants a signed copy of the Release Agreement attached hereto as Attachment B. Within ten (10) days of receipt of said Release Agreement, Defendants shall deliver to Counsel for IFHC, one check for FIFTY-FIVE THOUSAND AND SIX-HUNDRED-SIXTY-SIX DOLLARS AND SEVENTY-SEVEN CENTS (\$55,666.77) made payable to _____. Delivery of the check shall constitute Defendants' full monetary payment due to IFHC.

VII. COMPENSATION OF AGGRIEVED PERSONS

16. Within 30 days of the entry of this Decree, the Defendants shall deposit in an interest-bearing escrow account the total sum of TWENTY THOUSAND DOLLARS (\$20,000) for the purpose of compensating any aggrieved persons who may have suffered as a result of the Defendants' failure to make reasonable accommodations for persons with disabilities in compliance with the Fair Housing Act. This money shall be referred to as

“the Settlement Fund.”

17. Any interest accruing to the Settlement Fund shall become a part of the Settlement Fund and be utilized as set forth in this document.
18. Within 15 days of the entry of this Decree, the Defendants shall publish the Notice to Potential Victims of Housing Discrimination (“Notice”) at Attachment D informing readers of the availability of compensatory funds. The Notice shall be no smaller than three columns by six inches and shall be published on three occasions in the Post Register for a total of six publications. The publication dates shall be separated from one another by at least 21 days, and at least two of the publication dates shall be a Saturday. The final publication date shall be no later than 75 days from the entry of this Decree. Within 10 days of the final publication date, the Defendants shall provide copies of the pages from the newspaper containing the Notice to counsel for the United States.
19. Within 15 days of the entry of this Decree, the Defendants shall send a copy of the Notice to Potential Victims of Housing Discrimination to the Idaho Council of the Blind, 420 E. 16th Street, Idaho Falls, ID 83404; the National Federation of the Blind of Idaho, 1301 South Capitol Boulevard Suite C, Boise, ID 83706-2926; the Center on Disabilities and Human Development, University of Idaho, 322 E. Front Street, Boise, ID 83702; Idaho State Independent Living Council, P.O. Box 83720, Boise, ID 83720-9601; Living Independence Network Corporation, 2500 Kootenai, Boise, ID 83705; and Living Independently for Everyone, Inc., P.O. Box 4185, Pocatello, ID 83205-4185. The Defendants shall provide proof of mailing to counsel for the United States.

20. The United States shall investigate the claims of allegedly aggrieved persons and, within 180 days from the entry of this Decree, shall make a preliminary determination of which persons are aggrieved and an appropriate amount of damages that should be paid to each such person. The United States will inform the Defendants in writing of its preliminary determinations, together with a copy of a sworn declaration from each aggrieved person setting forth the factual basis of the claim. The Defendants shall have 14 days to review each declaration and provide to the United States any documents or information that they believe may refute the claim.
21. After receiving the Defendants' comments, the United States shall submit its final recommendations to the Court for approval, together with a copy of the declarations and any additional information submitted by the Defendants. When the Court issues an order approving or changing the United States' proposed distribution of funds for aggrieved persons, the Defendants shall, within 10 days of the Court's order, deliver to the United States checks payable to the aggrieved persons in the amounts approved by the Court. In no event shall the aggregate of all such checks exceed the sum of the Settlement Fund, including accrued interest.
22. When counsel for the United States has received a check from Defendants payable to an aggrieved person and a signed release in the form of Attachment B from the aggrieved person, counsel for the United States shall deliver the check to the aggrieved person and the original, signed release to counsel for Defendants. No aggrieved person shall be paid until he/she has executed and delivered to counsel for the United States the release at

Attachment B.

23. After the satisfaction of paragraphs 16-22, above, and the corresponding time periods have expired, any money remaining in the Settlement Fund shall be released to the Defendants.
24. The Defendants shall permit the United States, upon reasonable notice, to review any records that may facilitate its determinations regarding the claims of allegedly aggrieved persons.
25. Nothing in this section shall preclude the United States from making its own efforts to locate and provide notice to potential aggrieved persons.

VIII. CIVIL PENALTY

26. Defendants Stealth Investments, BMT Investments, and Mr. Woodhouse will pay to the United States a civil penalty pursuant to 42 U.S.C. § 3614(d)(1)(C) in the amount of FIFTY-FIVE THOUSAND DOLLARS (\$55,000). Said sum shall be paid within 30 days of the date of entry of this Decree by submitting to the United States a check made payable to the United States of America.

IX. COURT JURISDICTION, SCOPE, AND DURATION OF CONSENT ORDER

27. The parties stipulate and the Court finds that this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1345 and 42 U.S.C. §3612(o) and 3614(a). This Consent Decree is effective immediately upon its entry by the Court.
28. The Court shall retain jurisdiction over this action and over the Defendants for three years from the date of entry of this Consent Decree to enforce its terms, after which time the

case shall be dismissed with prejudice. The United States may move the Court to extend the duration of the Consent Decree in the interests of justice.

29. The parties shall endeavor in good faith to resolve informally any differences regarding interpretation of and compliance with this Consent Decree prior to bringing such matters to the Court for resolution. However, in the event of a failure by Defendants to perform in a timely manner any act required by this Consent Decree or otherwise to act in conformance with any provision thereof, Plaintiff 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.

IT IS SO ORDERED:

This _____ day of _____, 2008.

EDWARD J. LODGE
UNITED STATES DISTRICT COURT

Attorneys for Plaintiff, the United States:

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Confidential

Draft: For Settlement Purposes Only

May 30, 2008

Attachment A

CERTIFICATION OF RECEIPT OF CONSENT ORDER

I have been given and I have read a copy of the Consent Decree entered in United States v. Stealth Investments, Inc., et al., Case No.: 4:07-cv-500.

I understand my legal responsibilities and will comply with those responsibilities. I further understand that the Court may impose sanctions on me if I violate any provision of this Order.

(Signature)

(Print Name)

(Home Address)

(Home Address Continued)

(Home Telephone Number)

(Date)

Attachment B

RELEASE OF CLAIMS

In consideration of the payment of the sum of _____ dollars (\$ _____), pursuant to the Consent Decree entered in United States v. Stealth Investments, Inc., et al., Case No.: 4:07-cv-500 (D. Idaho), I, _____, hereby release 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 the 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)

(Print Name)

(Home Address)

(Home Address Continued)

(Date)

CONTINUED

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Draft: For Settlement Purposes Only

May 30, 2008

STATE OF IDAHO

COUNTY OF _____

I, _____, Notary Public, do hereby certify that
_____ appeared before me this day and acknowledged his or
her execution of the foregoing Release for the purposes therein expressed.

Witness my hand and notarial seal, this _____ day of _____, 2008.

NOTARY PUBLIC _____

My commission expires: _____

Confidential

Draft: For Settlement Purposes Only

May 30, 2008

Attachment C

List of Defendants' Rental Properties

1. Shadow Canyon Apartments
- 2.
- 3.
- 4.
- 5.

Attachment D

NOTICE TO POTENTIAL VICTIMS OF HOUSING DISCRIMINATION

On _____, 2008, the United States District Court for the District of Idaho entered a Consent Decree resolving a housing discrimination lawsuit brought by the United States against the owners and managers of Shadow Canyon Apartments. The lawsuit alleges that the owners and managers of Shadow Canyon Apartments have refused to make reasonable accommodations in their no-dog policy when such accommodations may be necessary to afford a person with a handicap equal opportunity to use and enjoy a dwelling.

The Consent Decree also establishes a Settlement Fund to compensate persons who have been harmed as a result of this discrimination at Shadow Canyon Apartments. You or members of your family may be qualified to recover from the Settlement Fund if you or members of your family:

- were discouraged from living at Shadow Canyon Apartments because of a refusal to make a reasonable accommodation in rules, policies, practices, or services, when such accommodations may be necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling;
- were discouraged from living at Shadow Canyon Apartments because of a disability or the disability of someone living with you;
- requested and were denied a reasonable accommodation for your disability or the disability of someone who was living with you.

If you believe you have been harmed because of your disability at Shadow Canyon Apartments, or if you have information about someone else who may have been harmed, please contact the United States Department of Justice at:

1-800-896-7743

leave message in mailbox X

You may also write to:

***United States Department of Justice
Civil Rights Division
Housing and Civil Enforcement Section
950 Pennsylvania Ave. N.W. -G St
Washington, DC 20530***

You must call or write on or before [no more than 90 days after _____, 2008,] and your message or letter must include your name, address, and, if possible, at least TWO telephone numbers where you may be reached.