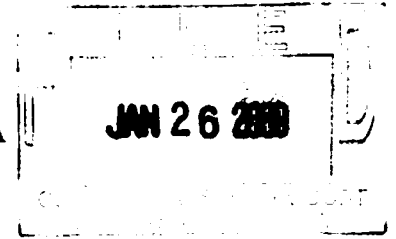


UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION



UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 SUMMERLAND HEIGHTS III, L.P.;)
 SUMMERLAND HEIGHTS III GP, L.L.C.;)
 CEDERQUIST, RODRIGUEZ, RIPLEY P.C.;)
 BOWMAN CONSULTING GROUP LTD.;)
 AND MARLYN DEVELOPMENT)
 CORPORATION.)
)
 Defendants.)

Civil Action No. 1:09CV46-JCC/TCB
CONSENT DECREE

1. This Consent Decree is entered between the United States of America and Defendants Summerland Heights III, L.P.; Summerland Heights III GP, L.L.C.; Cederquist, Rodriguez, Ripley, P.C.; Bowman Consulting Group Ltd.; and the Marlyn Development Corporation. It is entered into for the limited purpose of settling this action and nothing in this Consent Decree shall be construed as an admission of liability by any of the Defendants.

2. The United States has filed this lawsuit to enforce the provisions of Title VIII of the Civil Rights Act of 1968 ("the Fair Housing Act"), as amended, 42 U.S.C. §§ 3601 *et seq.*, and Title III of the Americans with Disabilities Act, 42 U.S.C. §§ 12181-12189 ("the ADA"). Specifically, the United States alleges that the Defendants have engaged in a pattern or practice of discrimination against persons with disabilities and denied rights to a group of persons because of disability by failing to design and construct an apartment complex in Woodbridge, Virginia -- the Crossings at Summerland (the "Subject Property") -- with the features of accessible and adaptable design and construction required by 42 U.S.C. § 3604(f)(3)(C).

3. The Subject Property is a rental property that has a main address of 13701 Keelingwood Circle, Woodbridge, Virginia. There are four three-story residential buildings in the complex and a separate rental office/clubhouse. Of the total 126 dwelling units in the complex, 36 are ground floor dwellings covered by the Fair Housing Act (“covered dwelling units”) as set forth in Appendix B. This complex was designed and constructed for first occupancy after March 13, 1991, and is therefore subject to the accessible design and construction requirements of 42 U.S.C. § 3604(f)(3)(C).

4. The United States also alleges that Defendants Summerland Heights III, L.P. and Summerland Heights III GP, L.L.C., violated Title III of the ADA by failing to design and construct the rental office at the Subject Property to be readily accessible to and usable by individuals with disabilities as required by 42 U.S.C. § 12183(a)(1) and the implementing regulations issued by the Department of Justice, 28 C.F.R. Part 36, including the Standards for Accessible Design, 28 C.F.R. Part 36, Appendix A (the Standards). The rental office at this complex was designed and constructed for first occupancy after January 26, 1993, and is a “place of public accommodation” within the meaning of Section 301(7)(E) of the ADA, 42 U.S.C. § 12181(7)(E).

II. DEFENDANTS

5. Summerland Heights III, L.P., is the owner of the Subject Property and was involved in the development and construction of the Subject Property. Summerland Heights III, L.P., was organized under the laws of the Commonwealth of Virginia and has its principal place of business in Norfolk, Virginia.

6. Summerland Heights III GP, L.L.C., is a developer of the Subject Property and was involved in the development and construction of the Subject Property. Summerland Heights III GP, L.L.C., was organized under the laws of the Commonwealth of Virginia and has its principal place of business in Norfolk, Virginia.

7. Cederquist, Rodriguez, Ripley, P.C. is an architectural firm licensed to do business in the Commonwealth of Virginia with its principal place of business in Norfolk, Virginia. It provided architectural design services for the Subject Property.

8. Bowman Consulting Group Ltd. is an engineering firm licensed to do business in the Commonwealth of Virginia, with its principal place of business in Chantilly, Virginia. It provided engineering design services for the Subject Property.

9. Marlyn Development Corporation was the general contractor for the Subject Property, and it was responsible for the construction of the Subject Property. Marlyn Development Corporation was organized under the laws of the Commonwealth of Virginia and has its principal place of business in Virginia Beach, Virginia.

III. RELEVANT REQUIREMENTS OF THE FAIR HOUSING ACT AND THE AMERICANS WITH DISABILITIES ACT

10. 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 units” and must include certain basic features of accessible and adaptable design to make such units usable by a person who has or who develops a disability. 42 U.S.C. §§ 3604(f)(3)(C) and (f)(7)(B).

11. 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 "FHA accessible design requirements."

12. The ADA requires that places of public accommodation designed and constructed for first occupancy after January 26, 1993 be readily accessible to and usable by individuals with disabilities. See 42 U.S.C. § 12183(a)(1), 28 C.F.R. Part 36, Appendix A.

IV. ALLEGED VIOLATIONS AT THE SUBJECT PROPERTY

13. The United States has surveyed the Subject Property and has identified alleged failures to meet the FHA accessible design requirements and the requirements of the ADA. For example, many of the routes between parking and other public and common use areas and dwelling entrances are allegedly inaccessible because of excessive slopes, curbs or other barriers. The Defendants deny that they have failed to comply with the Fair Housing Act and the ADA and deny that they have any liability under these statutes. However, the Defendants have agreed to take the corrective measures designated below.

V. CONSENT OF THE PARTIES TO ENTRY OF THIS CONSENT DECREE

14. The parties agree that this Court has jurisdiction over the subject matter of this case pursuant to 28 U.S.C. §§ 1331 and 1345, 42 U.S.C. § 3614(a) and 42 U.S.C. § 12188(b)(1)(B). The parties have negotiated a settlement such that the controversy will be resolved without further proceedings and without an evidentiary hearing. Accordingly, the parties have jointly consented to the entry of this Consent Decree as indicated by the signatures appearing below.

Therefore, it is hereby ORDERED, ADJUDGED and DECREED:

VI. GENERAL INJUNCTION

15. Defendants are hereby enjoined from discriminating on the basis of disability as prohibited by the Fair Housing Act, 42 U.S.C. § 3604(f)(1)-(3).

16. Defendants Summerland Heights III, L.P. and Summerland Heights III GP, L.L.C., are hereby enjoined from discriminating on the basis of disability as prohibited by Title III of the ADA, 42 U.S.C. § 12183(a)(1).

VII. MODIFICATIONS OF THE SUBJECT PROPERTY

(A) Public and Common Use Areas

17. Within twenty-four (24) months from the date of entry of this Consent Decree, the Defendants shall complete the modifications to the public and common use areas of the Subject Property as set forth in Appendix A-1. The Defendants 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. The Defendants shall provide notice to all residents of the Subject Property of the retrofits to the public and common use areas by delivering a "Notice"

substantially in the form of Appendix C fifteen (15) days prior to beginning the retrofits.

(B) Covered Dwelling Units

18. As soon as reasonably possible after entry of this Consent Decree, but in any event not more than eighteen (18) months from the date of entry of this Consent Decree, the Defendants shall complete the retrofits of the interiors of the covered dwelling units at the Subject Property as set forth in Appendix A-2 of this Consent Decree, even if there has not been a vacancy in those units and even if the tenants have not requested any retrofits.

19. Within thirty (30) days of the entry of this Consent Decree, the Defendants shall provide notice to all residents of covered dwelling units at the Subject Property by delivering a notice substantially in the form of Appendix D informing them of the planned retrofits and offering them the opportunity to request that such retrofits be completed in the unit. Upon such request, the Defendants shall complete the retrofits as promptly as practical, but in any event, not later than ninety (90) days following the receipt of the written request.

20. The Defendants shall pay all expenses associated with the above modifications and shall attempt, in good faith, to minimize any inconvenience to the residents. In the event a resident of a unit scheduled to undergo such modification as required herein incurs undue inconvenience or hardship (defined as a required dislocation from the unit for more than twenty-four (24) hours consecutively), the Defendants 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 can use the money to obtain alternative living accommodations while dislocated.

21. The Defendants Summerland Heights III, L.P. and Summerland Heights III GP, L.L.C. may not charge any additional rent, deposit or other fee for retrofits scheduled or completed in the covered dwelling units. However, nothing in this Consent Decree shall prevent Summerland Heights III, L.P. and Summerland Heights III GP, L.L.C. from imposing general rent increases that do not apply exclusively to covered dwelling units.

(C) Inspection of Retrofits

22. The Defendants shall enter into a contract with a neutral inspector approved by the United States (hereinafter "Inspector") to conduct on-site inspections of the retrofits that have been performed under this Consent Decree to determine if the retrofits have been completed in accordance with the specifications in Appendices A-1 and A-2. Such Inspector shall have expertise in the design and construction requirements of the Fair Housing Act and the ADA and its implementing regulations.

23. The Defendants may, at their option, submit drawings/plans of the required exterior retrofits to the Inspector, with a copy to the United States, for the Inspector's review.

24. The inspections of the public and common use areas and the interiors of covered dwelling units shall take place no later than 60 days after the deadline for the completion of the required retrofits. The Defendants shall give the United States at least three (3) weeks notice of the inspections and shall give the United States an opportunity to have its representative present for the inspections.

25. The Inspector shall set out the results of each inspection, including deficiencies, if any, in writing, and shall send that report by mail and by fax to counsel for the United States¹ and the Defendants. If the inspection indicates that not all of the required retrofits have been made as specified in Appendices A -1 and A-2 within the time frame indicated in the construction schedule, the Defendants shall correct any deficiencies within a reasonable period as determined by the Inspector, subject to the approval of the United States. The Defendants 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. The Defendants 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 Defendants, representatives of the United States shall be permitted to inspect the modifications in accordance with this Consent Decree or the third-party inspection reports provided for in this Consent Decree, to ensure compliance; provided, however, that the United States shall endeavor to minimize any inconvenience caused by such inspections.

(D) Sale or Transfer of an Ownership Interest in the Subject Property

26. The sale or transfer of ownership, in whole or in part, of the Subject Property shall not affect the Defendants Summerland Heights III, L.P.'s and Summerland Heights III GP, L.L.C.'s obligations to retrofit the Subject Property as specified in this Consent Decree, unless they have obtained, in writing, as a condition of sale or transfer, the purchaser's or transferee's

¹ 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. - NWB, Washington, D.C. 20530, Attn: DJ# 175-70-147, or as otherwise directed by the United States.

commitment to be bound by the terms of this Consent Decree to complete all required retrofits specified in Appendices A-1 and A-2. Should the Defendants Summerland Heights III, L.P. and Summerland Heights III GP, L.L.C. decide to sell or transfer any ownership interest in the Subject Property, in whole or in part, prior to the completion of the required retrofits, they shall, at least thirty (30) days prior to completion of the sale or transfer: (a) provide to each prospective purchaser or transferee a copy of this Consent Decree, along with written notice that the Subject Property is subject to this Consent Decree, including specifically the Defendants Summerland Heights III, L.P.'s and Summerland Heights III GP, L.L.C.'s obligations to complete required retrofit work and to allow inspections, or to obtain the purchaser's or transferee's commitment, in writing, to be bound by the requirements of this Consent Decree; and (b) provide to the United States, by electronic and first class mail, written notice of its intent to sell or transfer ownership, along with a copy of the notice sent to each purchaser or transferee, and each purchaser's or transferee's name, address and telephone number.

VIII. NON-DISCRIMINATION IN FUTURE DESIGN AND CONSTRUCTION

27. As set forth in the provisions of Paragraph 16 above, all covered multifamily housing designed or constructed by the Defendants shall include an accessible route to the primary entrances of such covered dwellings.

28. The Defendants Summerland Heights III, L.P. and Summerland Heights III GP, L.L.C., shall maintain and provide to the United States the following information and statements regarding any covered, multifamily dwellings intended to be developed, built, designed, and/or engineered in whole or in part, by them or by any entities in which they have a position of control as an officer, director, member, or manager, or have a ten percent (10%) or larger ownership

share. To satisfy this reporting obligation, the Defendants Summerland Heights III, L.P. and Summerland Heights III GP, L.L.C. shall provide the following information to the United States thirty (30) days after entry of this Consent Decree, one year after entry of this Consent Decree, and then annually for the remainder of the term of this Consent Decree, with respect to any covered multifamily dwelling projects:

- (a) the name and address of the multifamily dwelling projects;
- (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 engineers and/or civil engineers involved with the project acknowledging the requirements of Section 804(f)(3)(C) of the Fair Housing Act and verifying that they have reviewed the relevant engineering documents for the project and that the design specifications in those documents fully comply with the requirements of the Fair Housing Act and HUD Guidelines, (hereinafter "Guidelines") and, where applicable, the ADA;
- (e) the name, address and telephone number of the architect(s) involved with the project; and
- (f) a statement from all architects involved with the project acknowledging the requirements of Section 804(f)(3)(C) of the Fair Housing Act and verifying that their architectural plans for the project fully comply with the requirements of the Fair Housing Act and Guidelines and, where applicable, the ADA.
- (g) if the engineering documents or architectural plans are revised, and the revisions could have an impact on the accessibility of the dwellings or complex, Defendants Summerland

Heights III, L.P. and Summerland Heights III GP, L.L.C. shall obtain and maintain, and provide to the United States upon request, a statement from the site engineer(s) or architect(s), as applicable, who are responsible for such revisions, that all specifications in the revised engineering documents or architectural plans, as pertinent, comply with the requirements of the Fair Housing Act and Guidelines and, where applicable, the ADA.

29. For the term of this Consent Decree, if Cederquist, Rodriguez, Ripley, P.C. prepares any architectural plans, drawings, or blueprints for submission to local permitting authorities for the construction of covered multifamily housing, including the exterior and/or common use portions of such housing, it shall include on such plans, drawings or blueprints a statement that to the best of his/her professional judgment, knowledge, and belief the design specifications therein comply with the Fair Housing Act and, where applicable, the ADA. Defendant Cederquist, Rodriguez, Ripley, P.C. shall, on request, provide to the United States a list of all such multifamily housing projects the Defendant has designed or is designing during the term of this Consent Decree.

30. For the term of this Consent Decree, if Bowman Consulting Group Ltd., prepares any site plans, drawings, or blueprints for submission to local permitting authorities for the construction of covered multifamily housing, including the exterior and/or common use portions of such housing, it shall include on such plans, drawings or blueprints a statement that to the best of his/her professional judgment, knowledge, and belief the design specifications therein comply with the Fair Housing Act and, where applicable, the ADA. Defendant Bowman Consulting Group Ltd., shall, on request, provide to the United States a list of all such multifamily housing projects the Defendant has designed or is designing during the term of this Consent Decree.

IX. DAMAGES FOR AGGRIEVED PERSONS

31. Within thirty (30) days of the entry of this Consent Decree, Defendants shall deposit into an interest bearing escrow account the sum of Thirty thousand dollars (\$30,000) for the purpose of paying damages to any aggrieved persons who may have been harmed as a result of Defendants' alleged failure to design and construct the Subject Property in compliance with the FHA and the ADA.

32. Within thirty (30) days of the entry of this Consent Decree, Defendants Summerland Heights III, L.P. and Summerland Heights III GP, L.L.C. shall publish the Notice to Potential Victims of Housing Discrimination ("Notice"), attached hereto as Appendix E, informing the public of this settlement and of the damages fund described in the preceding Paragraph. The Notice shall be no smaller than three columns by six inches and shall be published on five (5) occasions in the *Potomac News*. The publication dates shall be separated from one another by at least five (5) days, and at least two (2) of the publications shall be in a Sunday edition of the newspaper. Within ten (10) days of the final publication date, Defendants Summerland Heights III, L.P. and Summerland Heights III GP, L.L.C. shall provide copies of the newspapers containing the Notice to counsel for the United States. Within thirty (30) days of the entry of this Consent Decree, Defendants Summerland Heights III, L.P. and Summerland Heights III GP, L.L.C. also shall send a copy of the Notice to the following organizations: (1) Virginia Fair Housing Office, 9960 Maryland Drive, Suite 400, Richmond, Virginia 23233-1463; (2) and Housing Opportunities Made Equal, Inc., 700 E. Franklin Street, Suite 3A, Richmond Virginia 23219.

33. Within thirty (30) days of the entry of this Consent Decree, Defendants Summerland Heights III, L.P. and Summerland Heights III GP, L.L.C. shall send by first-class mail, postage prepaid, a copy of the Notice to each existing tenant of the covered dwelling units at the Subject Property and to the last known address of any past tenant of a covered dwelling unit who resided in said covered dwelling unit at any time after January 1, 2000. Within forty-five (45) days of entry of this Consent Decree, Defendants Summerland Heights III, L.P. and Summerland Heights III GP, L.L.C. shall provide to counsel for the United States proof that the Notice has been sent. Defendants Summerland Heights III, L.P. and Summerland Heights III GP, L.L.C. shall also make available for inspection and copying any documents the United States believes may reasonably assist in the identification of potential aggrieved persons. Nothing in this section shall preclude the United States from making its own efforts to locate and provide notice to potential aggrieved persons.

34. Potential aggrieved persons shall be informed that they have 150 days from the date of entry of this Consent Decree to contact the United States in response to the Notice. The United States shall investigate the claims of potential aggrieved persons and, within 210 days from the entry of this Consent Decree, shall make a preliminary determination as to which persons are aggrieved and an appropriate amount of damages to be paid to each such person from the damages fund. The United States will inform the Defendants in writing of its preliminary determinations, together with a copy of a sworn declaration from each potential aggrieved person setting forth the factual basis of the claim. The Defendants shall have thirty (30) days to review the declaration and provide the United States with any documents or information they believe may refute the claim.

35. After receiving the Defendants' documents or information, the parties shall engage in good faith discussions regarding the United States' recommendations in an attempt to stipulate to a fair resolution and disposition for each claim that the Defendants dispute. For all claims to which the parties agree, the parties shall submit a stipulated order for entry by the Court specifying the name of the claimant and the amount payable to the claimant.

36. For those claims in which the parties are unable to agree, the United States shall submit its final recommendations to the Defendants and to the Court for its approval, together with a copy of the declarations and any additional information submitted by the Defendants, including but not limited to Defendants' objections to the United States' recommendations. The Court shall make the final determination relative to the proposed distribution of funds for aggrieved persons. If the Court issues an order approving or changing the United States' proposed distribution of funds for aggrieved persons, the Defendants shall, within ten (10) days of the Court's order, deliver to the United States checks from the damages fund 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 damages fund, including accrued interest, provided for in Paragraph 31 of this Consent Decree. No aggrieved person shall be paid until he or she has first executed and delivered to counsel for the United States a release consistent with the release form set forth in Appendix H. Counsel for the United States shall forward copies of all such releases to the Defendants. Following the issuance of all such checks, any remaining balance in the damages fund shall be disbursed to the Defendants.

X. CIVIL PENALTY

37. Within thirty (30) days of the date of entry of this Consent Decree, Defendants Summerland Heights III, L.P.; Summerland Heights III GP, L.L.C.; Cederquist, Rodriguez, Ripley, P.C.; Bowman Consulting Group Ltd.; and the Marlyn Development Corporation; shall jointly pay to the United States a civil penalty of Twenty thousand dollars (\$20,000) to vindicate the public interest, pursuant to 42 U.S.C. §3614(d)(1)(C). This sum shall be paid by submitting to counsel for the United States a check made payable to the "United States of America."

XI. EDUCATIONAL PROGRAM

38. Within thirty (30) days of the entry of this Consent Decree, Defendants shall provide a copy of this Consent Decree to all their supervisory employees, rental or sales agents, and site managers involved in the design, construction, rental, or sale of covered multifamily dwellings (all such persons referred to herein as a "Covered Person" or as "Covered Personnel") and secure the signed statement from each such Covered Person acknowledging that he or she has received and read this Consent Decree, and had an opportunity to have questions about this Consent Decree answered. This statement shall be substantially in the form of Appendix F.

39. Within thirty (30) days after the date he or she commences an agency or employment relationship with Defendants, each new Covered Person shall be given a copy of this Consent Decree and be required to sign a statement substantially in the form of Appendix F acknowledging that he or she has received and read this Consent Decree, and had an opportunity to have questions about this Consent Decree answered.

40. Defendants shall also ensure that they and any other employees and agents who have supervisory authority over 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).

41. Within one hundred eighty (180) days of the date of entry of this Consent Decree, Defendants and all employees and agents whose duties, in whole or in part, involved supervisory authority over the development, design and/or construction of the covered multifamily dwellings at issue in this case shall undergo training on the design and construction requirements of the Fair Housing Act. For the Defendants Summerland Heights III, L.P. and Summerland Heights III GP, L.L.C., such training shall also include all employees and agents whose duties, in whole or in part, involve the rental of apartments at the Subject Property and shall include training on those portions of the Fair Housing Act that relate to accessibility requirements. A qualified third party, unconnected to Defendants or their employees, agents or counsel, shall conduct the training, and any expenses associated with this training shall be borne by Defendants. Defendants 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 trainers; and certifications executed by all Defendants and covered employees and agents confirming their attendance, in a form substantially equivalent to Appendix G.

XII. PUBLIC NOTICE OF NON-DISCRIMINATION POLICY

42. Defendants Summerland Heights III, L.P. and Summerland Heights III GP, L.L.C. shall post and prominently display the federal Fair Housing Poster, as described in 24 C.F.R. 110.15 and 110.25, in the leasing office of the Subject Property and in any other 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 dwellings from them.

43. In all advertising in newspapers where the advertisement is more than two square inches, on pamphlets, brochures and other promotional literature, and on any internet website regarding the Subject Property and other existing properties, or any new covered complexes that the Defendants Summerland Heights III, L.P. and Summerland Heights III GP, L.L.C. may design, develop or construct, the Defendants Summerland Heights III, L.P. and Summerland Heights III GP, L.L.C. shall place, in a conspicuous location, a statement that the covered dwelling units include features for persons with disabilities required by the federal Fair Housing Act.

XIII. ADDITIONAL MONITORING REQUIREMENTS

44. The Defendants shall advise counsel for the United States in writing within thirty (30) days of receipt of any written complaint against them, their employees or agents, involving, or potentially involving, discrimination regarding housing on the basis of disability under the Fair Housing Act or, where applicable, the ADA. The Defendants shall also promptly provide the United States all non-privileged information it may request concerning any such complaint. Within thirty (30) days of the resolution of any such complaint, Defendants shall advise counsel for the United States that a resolution has been reached.

45. Defendants are required to preserve all records related to this Consent Decree regarding the Subject Property, and all future covered multifamily dwellings to be designed, constructed, owned, operated or acquired by them independently or jointly during the period of this Consent Decree. Upon reasonable notice to Defendants, representatives of the United States

shall be permitted to inspect and copy any of Defendants' non-privileged records relating to this Consent Decree or its compliance therewith, or, in the case of the Defendants Summerland Heights III, L.P. and Summerland Heights III G P, L.L.C., to inspect any covered dwelling unit or any covered public and common use areas at the Subject Property under Defendants Summerland Heights III, L.P.'s and Summerland Heights III GP, L.L.C.'s control at reasonable times so as to determine compliance with this Consent Decree.

46. Within 210 days after the entry of this Consent Decree, Defendants shall submit an initial report containing the signed statement certifications of attendance for Covered Personnel who have completed the education program specified in Section XI of this Consent Decree. Thereafter, Defendants shall, one year after entry, two years after entry, and two years and 10 months after entry, submit to the United States a report containing the signed statements of new Covered Personnel certifying that, in accordance with Section XI, they have received and read this Consent Decree and had an opportunity to have questions about this Consent Decree answered.

XIV. DURATION OF CONSENT DECREE AND TERMINATION OF LEGAL ACTION

47. This Consent Decree and the terms contained herein shall remain in effect for three (3) years after the date of its entry. While Defendants continue to deny liability, the United States and Defendants agree that in the event Defendants engage in any future violation(s) of the Fair Housing Act, such violation(s) shall constitute a "subsequent violation" pursuant to 42 U.S.C. § 3614(d)(1)(C)(ii).

48. The Court shall retain jurisdiction to enforce the terms of this Consent Decree during its duration, after which time the case shall be dismissed with prejudice. The United

States may move the Court to extend the duration of this Consent Decree in the interests of justice. Defendants reserve the right to oppose such motion.

49. 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 any party to perform in a timely manner any act required by this Consent Decree or otherwise to act in conformance with any provision thereof, any party 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.

XV. TIME FOR PERFORMANCE


50. Any time limits for performance imposed by this Consent Decree may be extended by the mutual agreement, in writing, of the United States and the relevant Defendant, or by order of this Court upon motion by any party hereto.

XVI. COSTS OF LITIGATION

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

IT IS SO ORDERED:

This 26 day of January, 2009.



/s/
James C. Cacheris
United States District Judge

United States District Judge

Agreed to by the parties as indicated by the signatures below.

FOR PLAINTIFF UNITED STATES:
GRACE CHUNG BECKER
Acting Assistant Attorney General
Civil Rights Division

/s/ Steven H. Rosenbaum
STEVEN H. ROSENBAUM
Chief

REBECCA B. BOND
Deputy Chief
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Attorneys for the United States of America

FOR DEFENDANTS SUMMERLAND
HEIGHTS III, L.P. AND SUMMERLAND
HEIGHTS III GP, L.L.C.:

/s/ Minh Vu
MINH VU, ESQ.
Epstein Becker & Green, P.C.
1227 25th Street, NW, Suite 700
Washington, DC 20037-1175

FOR DEFENDANTS CEDERQUIST,
RODRIGUEZ, RIPLEY P.C.:

/s/ John Franklin, III
JOHN FRANKLIN, III, ESQ.
Taylor & Walker, P.C.
555 Main Street, Suite 1300
P.O. Box 3490
Norfolk, VA 23510-3490

FOR DEFENDANTS MARLYN
DEVELOPMENT CORPORATION:

/s/ M. David Jester
M. DAVID JESTER
President
Marlyn Development Corporation
308 35th Street
Virginia Beach, VA 23451

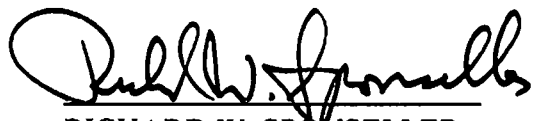
Agreed to by the parties as indicated by the signatures below.

FOR PLAINTIFF UNITED STATES:

GRACE CHUNG BECKER
Acting Assistant Attorney General
Civil Rights Division

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FOR DEFENDANTS SUMMERLAND
HEIGHTS III, L.P. AND SUMMERLAND
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FOR DEFENDANTS MARLYN
DEVELOPMENT CORPORATION:

/s/
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Agreed to by the parties as indicated by the signatures below.

FOR PLAINTIFF UNITED STATES:
GRACE CHUNG BECKER
Acting Assistant Attorney General
Civil Rights Division

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/s/
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President
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Virginia Beach, VA 23451

FOR DEFENDANTS BOWMAN
CONSULTING GROUP LTD:

A handwritten signature in black ink, appearing to read "Robert Hickey", written over a horizontal line.

ROBERT HICKEY, ESQ
Bowman Consulting Group, Ltd
3863 Centerview Dr. Suite 300
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/s/
BRUCE TITUS, ESQ.
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FOR DEFENDANTS BOWMAN
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**APPENDIX A-1
CROSSINGS AT SUMMERLAND APARTMENTS --
PUBLIC AND COMMON USE AREAS¹**

1. Accessible Route from Parking to Leasing Office.

A) Provide an accessible route with a running slope no greater than 5% and a cross slope no greater than 2% from the existing accessible parking access aisle to the Leasing Office entry. Regrade the existing accessible parking access aisle and curb ramp to have a cross slope not to exceed 2% maximum rather than the existing cross slope of 3.9% to 4.5%, and a running slope not to exceed 5% or 8.33% maximum, if constructed as a ramp, rather than the existing running slope of 11.4% to 12.2%. Provide ADA compliant truncated dome detectable warnings at the curb ramp. [ADA Standards §§ 4.1.2(5), 4.6; FHAG Req. 1; ANSI A117.1-1986 A117.1-1986 4.3, 4.7.7, 4.8.6, 4.2.4, Fig. 4(a)].

B) Provide compliant handrails at the steps to the leasing office entry, including extensions, on both sides to provide a continuous railing on either side of the steps. [ADA Standards §§ 4.1.3(4), 4.9.4].

2. Accessible Route from Covered Dwelling Units to Leasing Office/Clubhouse, Pool Area and Mail Kiosk.

A) Provide an accessible route for pedestrians from Building 3, Breezeways 13750 and 13760 with a cross slope that does not exceed 2% and running slope that does not exceed 5% to the leasing office/clubhouse, pool area and mail kiosk including, an accessible route to each side of the kiosk where the mail boxes are located.

B) Provide a vehicular accessible route from Buildings 1, 2, and 4, to the leasing office/clubhouse, pool area and mail kiosk. In addition, where a vehicular route is provided there must be accessible parking at each building and at each facility served. Accessible parking must meet the provisions of ANSI 4.6, Parking Spaces and Passenger Loading Zones.

C) At the sidewalk from Breezeway 13750 (Building 3) to the public sidewalk, provide a 2% maximum cross slope and a 5% maximum running slope. Currently, the cross slope is up to 5.9% and the running slope is up to 7.8%.

D) At the covered dwelling unit entry doors to Breezeways 13711, 13721, 13730, 13731, 13740, 13741, 13750, 13751 and 13760, take one of the following actions: (1) replace all light

¹ The accessible pedestrian routes, curb ramps, accessible access aisles at the parking spaces, and the vehicular accessible route are shown on the attached "Illustration of Accessible Routes required by Appendix A-1" which is attached to and made a part of this Appendix.

sconces that projects from the walls more than 4" within the space 27" to 80" above the ground floor; (2) relocate the sconces above 80"; or (3) install a cane detectable element at below 27" above the ground floor so that the difference between the projection of the cane detectable element from the wall and the projection of the sconce from the wall is no greater than 4".

E) At all covered dwelling unit exterior entry doors, replace knob hardware with accessible lever style hardware.

F) The Guidelines allow an overall change in level of 1 1/4" at the exterior side of the entry door to covered units. However, these changes in level must be beveled with a slope no greater than 1:2. This bevel is lacking at the entry doors in breezeways 13711, 13721, 13741 and 13751.

3. Accessible Route from Covered Dwelling Units to Parking.

A) At Building 1: Reduce the cross slopes in the accessible parking access aisles to a maximum of 2%.

B) At Buildings 1-4: At each building rework the curb ramps near the accessible parking aisles to have a maximum running slope of 8.33% rather than the existing running slope of 9% to 20.9%, and a maximum cross slope of 2% rather than the existing cross slope of 3.7% to 5.8%. In addition, at Building 3 and 4 rework the running slope on the curb line to 8.33% maximum. Currently, the curb line has a running slope of 36.3% and 28.9%.

C) At Buildings 1-4: Provide an accessible route with 2% maximum cross slope and a 5% maximum running slope, or, 8.33% if constructed as a ramp, at the following locations: a) at the parallel sidewalks between the curb ramps and the breezeways to each building, including a compliant level landing surface at the existing curve connection/ramp at both the top and bottom; b) and on any sidewalk that connects the parallel sidewalks to each breezeway. In addition, at Building 1 near the connecting sidewalk to Breezeway 13711, regrade the abrupt level change so that the surface is flush or 1/4" vertical maximum or 1/2" maximum beveled 1:2 above 1/4" rather than the existing 7/8" high. Also, at the connecting sidewalks to breezeways 13721 and 13731, fill in all of the gaps that are wider than 1/2".

D) Regrade the abrupt level change to the exterior door threshold of each ground floor entry unit at breezeways 13711, 13721, 13741, and 13751 so that any vertical level change greater than 1/4" is beveled 1:2 with the maximum height of 1 1/4" from the level of the entry to the inside flooring at the door.

4. Accessible Route from Covered Dwelling Units to Trash Dumpster.

At Buildings 1-4: Provide trash totes towards the back of each breezeway in a location that it is accessible to persons with disabilities and does not protrude into the accessible route. The existing dumpster shall remain in its present location.

5. At Leasing Office.

A) At the main entrance doors to the leasing office, adjust the door closer so that the door pressure is 8.5 pounds maximum rather than the existing 12 pounds on the left leaf and 9 pounds on the right one. [FHAG Req. 3, ANSI A117.1-1986 § 4.13.10].

B) At both the men's and women's toilet rooms:

- Relocate the toilet paper dispensers so that they are a maximum of 36" from the rear wall rather than the existing 39" to 51". [ADA Standards 4.16.6, Fig. 30 (d); FHAG Req. 2, ANSI A117.1-1986 4.16.6, Fig. 30 (d)].
- Adjust the door closer so that the door pressure at each door is 5 pounds maximum rather than the existing pressure, which is 7 and 8 pounds. [FHAG Req. 3, ANSI A117.1-1986 § 4.13.10].
- Rework existing doors to pool area so there is 18" minimum maneuvering clearance on the latch side of each door, or provide an automatic door opener. [ANSI A117.1-1986 § 4.13.6, Fig. 25].
- Rework thresholds at doors to pool area that are 1" high on the interior and 1 1/4" high on the exterior so that they are no higher than 1/2" and beveled with a slope no greater than 1:2. [FHAG Req. 1, ANSI A117.1-1986 4.13.8].

6. At Clubhouse and Pool Area.

A) At the 24-hour door to the fitness center/toilet room hallway, provide a threshold not exceeding 1/2" in height and beveled with a slope no greater than 1:2. [FHAG Req. 3, ANSI A117.1-1986 4.13.8].

B) At the roll-in pool shower:

- Ensure that the shower has compliant side grab bars. [FHAG Req. 2, ANSI A117.1-1986 §4.21, Fig. 37].
- Provide a shower that has a shower spray unit with a hose at least 60" long, which can be used both as a fixed shower head and as a hand-held shower. In unmonitored facilities where vandalism is a consideration, a fixed shower head mounted at 48" above the shower floor may be used in lieu of a hand-held shower head. [FHAG Req. 2, ANSI A117.1-1986 §4.21.6, Fig. 37].
- Relocate the controls so they are a maximum height of 48" above the finished floor. Currently, the controls are 57" above the finished floor. [FHAG Req. 2,

ANSI A117.1-1986 §§ 4.21.5, 4.25.4, Fig. 37].

APPENDIX A-2
CROSSING AT SUMMERLAND APARTMENTS -
APARTMENT INTERIORS

1. In the One Bedroom/One Bathroom - HC Covered Dwelling Unit.

A) At the interior side of the patio door, build up underside of carpet so that threshold is maximum 3/4" high and add 1:2 beveled transition strip (or build up to maximum 1/4" high with no bevel).

B) Provide knee space under the sink that is 30" wide. Currently, there is only 28" of knee space.

2. In the One Bedroom/One Bathroom - Adaptable Covered Dwelling Unit.

A) At the interior side of the patio door, build up the underside of carpet so that threshold is maximum 3/4" high and add 1:2 beveled transition strip (or build up to maximum 1/4" high with no bevel).

B) Relocate the toilet by installing an offset flange to provide 15" from the lavatory to the centerline of the toilet and provide a minimum of 16" from the centerline of the toilet to the wall. In addition, provide a lavatory centerline that is a minimum of 24" from the tub or modify the lavatory to provide removable cabinetry below the sink, finish the flooring and surrounding areas to match the existing flooring and surrounding areas, and insulate the pipes to provide forward approach at the sink.

3. In the Two Bedroom/Two Bathroom - Adaptable Covered Dwelling Unit.

A) At the interior side of the threshold at the entry door, provide a bevel at 1:2. This can be accomplished by building up underside of carpet or vinyl so that the threshold is a maximum 3/4" high, but with a 1:2 bevel.

B) Provide a lavatory centerline of 24" in the hall bathroom and the master bathroom, or replace or modify the lavatory to provide removable cabinetry below the sink, finish the flooring

and surrounding areas to match the existing flooring and surrounding areas, and insulate the pipes to provide forward approach at the sink.

C) A 30" x 48" clear floor space beyond the swing of the door at the hall bathroom is not available. Reverse the swing of the door to increase the maneuvering space within the bathroom.

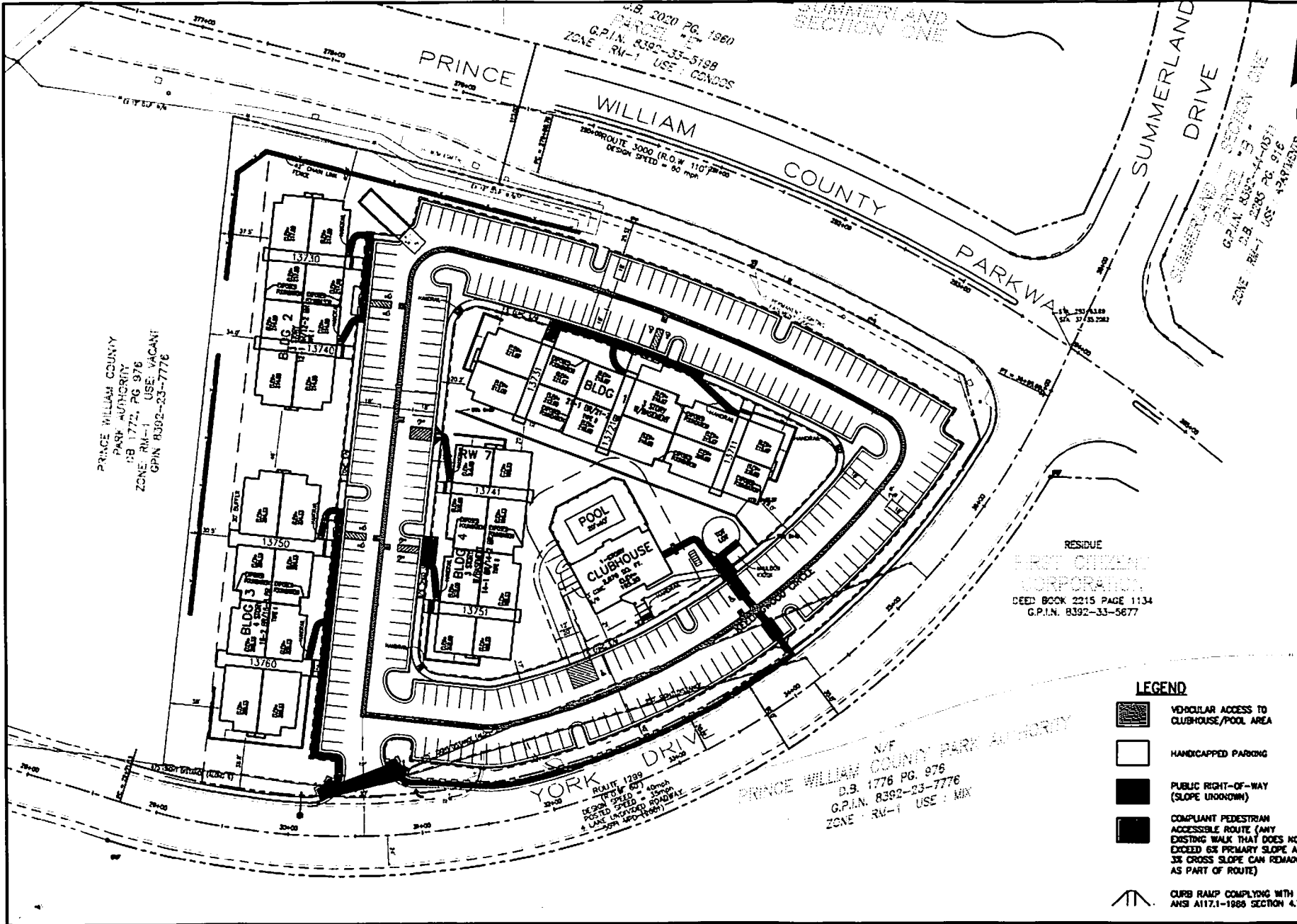
D) Relocate the toilet by installing an offset flange to provide 15" from the lavatory to the centerline of the toilet and provide a minimum of 16" from the centerline of the toilet to the wall. In addition, provide a lavatory centerline a minimum of 24" from the tub or modify the lavatory to provide removable cabinetry below the sink, finish the flooring and surrounding areas to match the existing flooring and surrounding areas, and insulate the pipes to provide forward approach at the sink.

4. In the Three Bedroom/Two Bathroom - Adaptable Covered Dwelling Unit.

A) At the interior side of the threshold at the entry door, provide a bevel at 1:2. This can be accomplished by building up underside of carpet or vinyl so that the threshold is a maximum 3/4" high, but with a 1:2 bevel.

B) Replace or modify the lavatory in the hall bathroom and the master bathroom to provide a lavatory centerline of 24" from the side wall, or modify the lavatory to provide removable cabinetry below the sink, finish the flooring and surrounding areas to match the existing flooring and surrounding areas, and insulate the pipes to provide forward approach at the sink.

C) A 30" x 48" clear floor space beyond the swing of the door at the hall bathroom is not available. Reverse the swing of the door to increase the maneuvering space within the bathroom.



LEGEND

- VEHICULAR ACCESS TO CLUBHOUSE/POOL AREA
- HANDICAPPED PARKING
- PUBLIC RIGHT-OF-WAY (SLOPE UNKNOWN)
- COMPLIANT PEDESTRIAN ACCESSIBLE ROUTE (ANY EXISTING WALK THAT DOES NOT EXCEED 6% PRIMARY SLOPE AND 3% CROSS SLOPE CAN REMAIN AS PART OF ROUTE)
- CURB RAMP COMPLYING WITH ANSI A117.1-1986 SECTION 4.7

Bowman CONSULTING

ILLUSTRATION OF ACCESSIBLE ROUTES
 REQUIRED BY APPENDIX A-1
 SUMMERLAND SECTION 1 - PARCEL 'C'
 WOODBRIDGE, MIDDLESEX COUNTY, PRINCE WILLIAM COUNTY

Plan Status

DATE	BY	CHECKED	DATE
SCALE	1" = 30'		
JOB NO.	1171-01-001		
DATE	DECEMBER, 2008		
FILE NO.	1171-0-01-011		

SHEET 1 of 1

APPENDIX B

LIST OF COVERED DWELLING UNITS AT THE CROSSINGS AT SUMMERLAND

I. BUILDING 1

13711 Keelingwood Circle -201, 202, 203, 204

13721 Keelingwood Circle - 201, 202, 203, 204

13731 Keelingwood Circle -201, 202, 203, 204

II. BUILDING 4

13741 Keelingwood Circle-201, 202, 203, 204

13751 Keelingwood Circle 201, 202, 203, 204

III. BUILDING 2

13730 Keelingwood Circle- 101, 102, 103, 104

13740 Keelingwood Circle-101,102,103,104

IV. BUILDING 3

13750 Keelingwood Circle-101,102,103,104

13760 Keelingwood Circle - 101,102,103,104

APPENDIX C

NOTICE OF RETROFITS TO PUBLIC AND COMMON USE AREAS

AT THE CROSSINGS AT SUMMERLAND

The Crossings at Summerland 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 Crossings at Summerland have certain features of physical accessibility for persons with disabilities.

Alleged inaccessible aspects of the public and common areas of the complex have been brought to our attention. We welcome persons with disabilities as residents and guests at the Crossings at Summerland. We are writing this notice to let you know that beginning on _____, 2009, contractors 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 _____ months.

Generally, the contractors will add sidewalks or modify certain existing ones, and install ramps or modify existing ones. They will also be adding or making modifications to parking areas, mailboxes, the leasing office and other common use facilities to make them more accessible to persons with disabilities. We apologize for any inconveniences you may experience as a result of this work.

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

_____.

APPENDIX D

NOTICE OF RETROFITS TO INTERIOR OF GROUND-FLOOR UNITS

AT THE CROSSINGS AT SUMMERLAND

The Crossings at Summerland is dedicated to the principle of equal housing opportunity. The federal Fair Housing Act requires that ground floor apartments in newer apartment communities have certain features of physical accessibility for persons with disabilities.

Alleged accessibility barriers at the complex have been brought to our attention and we are currently in the process of correcting those barriers. We have identified your unit as one that is covered by the Fair Housing Act's accessibility requirements. We welcome people with disabilities as residents and guests at the Crossings at Summerland and would like to make them as comfortable as possible. Therefore, we have agreed to make certain modifications to all of the ground-floor units covered by the Fair Housing Act's accessibility requirements so that they will be more accessible to persons with disabilities.

We will complete all required modifications to all of the interiors of certain units within eighteen (18) months from _____, 2009. We are giving you notice that we are in the process of scheduling a retrofit to your unit. Should you desire the retrofits to be completed sooner, please notify us in writing at the address provided below and we will contact you to schedule the retrofits. Should the modifications require your temporary relocation, we will pay reasonable relocation and housing expenses while the modifications are being made. Depending on the particular features of your unit, the alterations may require such modifications as:

- Lowering entry or interior door thresholds;

- Reversing the swing of the door to the hall bathroom to increase the maneuvering space within the bathroom;
- Replacing or modifying the lavatory in the hall bathroom and the master bathroom to provide a forward approach.

A representative will be contacting you soon to review these modifications and to discuss a time frame within which these modifications will be made.

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

APPENDIX E

NOTICE TO POTENTIAL VICTIMS OF HOUSING DISCRIMINATION

On _____, 2009, the United States District Court for the Eastern District of Virginia entered a Consent Decree resolving litigation brought by the United States Department of Justice involving the Crossings at Summerland, in Woodbridge, Virginia. The litigation alleged that the above complex, as designed and constructed, failed to include certain features of accessible design required by the Fair Housing Act in both exterior and interior common areas and in ground floor apartments.

Under this Consent Decree, you may be entitled to receive monetary relief if you:

- **WERE DISCOURAGED FROM LIVING AT THE COMPLEX LISTED ABOVE BECAUSE OF THE LACK OF ACCESSIBILITY FEATURES;**
- **HAVE BEEN INJURED OR DAMAGED IN ANY WAY BY THE LACK OF PHYSICAL ACCESSIBILITY FEATURES AT THE COMPLEX; OR**
- **PAID TO HAVE YOUR APARTMENT AT THE COMPLEX MADE MORE PHYSICALLY ACCESSIBLE.**

If you wish to make a claim for discrimination on the basis of disability, or if you have any information about persons who may have such a claim, please contact the **United States**

Department of Justice at 1-800-896-7743. You may also email us at fairhousing@usdoj.gov or write to:

United States Department of Justice
Civil Rights Division
Housing and Civil Enforcement Section
950 Pennsylvania Avenue, N.W. - G Street
Washington, D.C. 20530
Attn: DJ 175-81-33.

NOTE: You must call, write, or email us no later than _____.

APPENDIX F

ACKNOWLEDGMENT OF RECEIPT OF CONSENT DECREE

On _____, I received a copy of and have read the Consent Decree entered by the federal district court in United States of America v., Summerland Heights III, L.P. et al., C.A. No. _____ (E.D. VA). All of my questions concerning the Consent Decree and the Fair Housing Act have been answered to my satisfaction.

(Signature)

(Print name)

(Position)

(Date)

APPENDIX G

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 H

RELEASE

In consideration of and contingent upon the payment of the sum of _____ dollars (\$ _____), pursuant to the Consent Decree entered in **United States of America v., Summerland Heights III, L.P. et al.**, United States District Court, Eastern District of Virginia, 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 any alleged violations of the Fair Housing Act and/or the Americans with Disabilities Act in any way arising from the design and/or construction of the Crossings at Summerland apartment complex in Woodbridge, Virginia. 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: _____