

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW HAMPSHIRE**

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	CASE NO. 1:12-cv-00219
v.	)	
	)	
TALGAR GENERAL PARTNERSHIP,	)	
BRUCE TALBOT, and H. WILLIAM	)	
GARDNER,	)	
	)	
Defendants.	)	
_____	)	

**CONSENT ORDER**

**INTRODUCTION**

**A. Background**

1. This Consent Order is entered between the United States of America and Defendants Talgar General Partnership, Bruce Talbot, and H. William Gardner (referred to herein as "Defendants").
2. This action was brought in June 2012 to enforce the provisions of the Fair Housing Act, Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 ("Fair Housing Act" or "the Act"), 42 U.S.C. §§ 3601 et seq. The United States alleges that Defendants, who own and operate the Sleepy Hollow Mobile Home Park ("Sleepy Hollow") in Newmarket, New Hampshire, refused to make reasonable accommodations for persons with disabilities in violation of Section 804(f)(1)–(f)(3)(B) of the Act. See 42 U.S.C. § 3604(f)(1)–(3)(B). The Defendants have denied and continue to deny these allegations.

**B. Consent of the Parties to Entry of this Order**

3. The Parties agree that this Court has jurisdiction over the subject matter of this case pursuant to 28 U.S.C. § 1345 and 42 U.S.C. § 3612(o). The Parties further agree that the instant controversy should be resolved without further proceedings and without an evidentiary hearing.
4. As indicated by the signatures appearing below, the Parties agree to entry of this Consent Order. It is expressly understood and agreed to by all parties hereto that all statements herein and negotiations by and between the parties and all proceedings in connection with this action shall not be in any way or manner considered, construed, or otherwise interpreted as an admission of liability, fault, or wrongdoing by Talgar General Partnership, Bruce Talbot, and/or H. William Gardner.

**It is hereby ADJUDGED, ORDERED and DECREED:**

**I. GENERAL INJUNCTION**

5. Defendants, their agents, employees, and all other persons in active concert or participation with them, agree that they shall refrain from:
  - (a) discriminating in the sale or rental, or from otherwise making unavailable or denying a dwelling to any buyer or renter because of a disability 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 disability as prohibited by the Fair Housing Act, 42 U.S.C. § 3604(f)(2); and

- (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).

## **II. REASONABLE ACCOMMODATION PROCEDURE**

6. Defendants have adopted and will continue to implement the Reasonable Accommodation Procedure set out in Park rules at Rule VI referred to at paragraph 7.
7. Within fourteen (14) days of the entry of this Consent Order, Defendants shall notify in writing each applicant to and resident of the Sleepy Hollow Mobile Home Park of the amendment to park rules with the addition of the supplement to Sleepy Hollow Park Rule VI by distribution of a complete set of rules in compliance with NH RSA 205:A: 6 I, and RSA 205-A:2 VII. In making this notification, Defendants shall specifically inform residents in writing of the existence of the Reasonable Accommodation Procedure.
8. Also within fourteen (14) days of the entry of this Consent Order, Defendants shall post the supplement to Sleepy Hollow Park Rule VI (the Reasonable Accommodation Procedure) in the Park Office in a conspicuous location, easily viewable to residents and prospective residents.
9. If Defendants propose to change the Reasonable Accommodation Policy supplement to Sleepy Hollow Park Rule VI, they shall first notify the United States and provide a copy of the proposed changes. If the United States does not deliver written objections to Defendants within 60 days after receiving the proposed changes, the changes may be effected. If the United States makes any objections to the proposed changes within the

60-day period, the specific changes to which the United States objects shall not be effected until the objections are resolved.

### **III. COMPENSATION OF AGGRIEVED PERSONS**

10. Within 30 days of the entry of this Order, the Defendants shall pay the sum of \$5000 to Complainant Michael Scribner, and the sum of \$5000 to Complainant Judy DeMerchant, for the purpose of compensating them, and in exchange for the execution by that Complainant of a Release of Liability in the form set out at Attachment A.
11. Defendants shall send checks payable to the Complainants for the amounts set forth in the preceding paragraph, by express, to counsel for the United States at the following address: Chief, Housing & Civil Enforcement Section, Civil rights Division, United States Department of Justice ATTN: DJ 175-47-39, 1800 G St, N.W., Seventh Floor, Washington, DC 20006.<sup>1</sup> Upon receipt of a release form executed by each Complainant (Attachment C), the United States shall forward the check made out to that Complainant and will send the executed release to defendants.

### **IV. EDUCATIONAL PROGRAM**

12. Within 30 days of the entry of this Order, Defendants shall provide a copy of the Park Rules as amended by the addition of the supplement to Sleepy Hollow Park Rule VI to all agents involved in the sale of units in Sleepy Hollow for distribution to applicants and prospective tenants who desire entry into Sleepy Hollow Mobile Home park, all as required by NH RSA 205-A:2 VII. In making this notification, Defendants shall specifically inform the agents in writing of the existence of the Reasonable Accommodation Procedure.

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<sup>1</sup> All written communications by Defendants to the United States shall be sent by electronic mail and by overnight mail to the address in this paragraph.

13. Within 90 days of the date of entry of this Consent Order, Defendants of the Sleepy Hollow Mobile Home Park shall undergo training on the Fair Housing Act, which shall include training regarding discrimination on the basis of disability. The training shall be conducted by a qualified third-party, who is unconnected to Defendants or their employees, agents or counsel, and approved in advance by the United States. All expenses associated with this training shall be borne by Defendants. The parties agree that training the Defendants will undergo in connection with a HUD Conciliation Agreement executed by them, HUD FHEO No. 0-12-022-8, will satisfy the requirements of this paragraph.

**V. NOTICE OF DEFENDANTS' NON-DISCRIMINATION POLICY**

14. For the duration of this Consent Order, Defendants agree to and shall post and prominently display within leasing offices at the Sleepy Hollow Mobile Home Park and any additional rental dwellings that Defendants may acquire, manage, or operate, in a conspicuous location, the federal Fair Housing Poster, no smaller than 10 by 14 inches, as described by 24 C.F.R. Part 110, indicating that all dwellings are available for rental on a non-discriminatory basis.
15. For the duration of this Consent Order, in any future advertising in newspapers, and on pamphlets, brochures and other promotional literature regarding the Sleepy Hollow Mobile Home Park and any additional rental dwellings that Defendants may acquire, and on any internet website regarding Sleepy Hollow or any multifamily rental dwellings that Defendants may acquire, manage, or operate, Defendants agree to and shall place, in a conspicuous location, a statement that the dwelling units are available for rental on a non-discriminatory basis.

## **VI. NOTIFICATION AND DOCUMENT RETENTION REQUIREMENTS**

16 Within 60 days after the entry of this Order, Defendants shall submit an initial report documenting their compliance with the requirements of this Consent Order.

Defendants shall submit a second and final report 60 days before the expiration of this Consent Order. The reports shall include information about any denial by Defendants or their agents or employees of a request by a tenant or applicant to keep an assistance animal, including that person's name, address, and telephone number, and the details of the request and reason(s) for the denial.

17. Defendants shall keep written records of each request for reasonable accommodation it receives during the duration of this Consent Order, and shall provide such records to the United States upon request. These records shall include: (a) the name, address, and telephone number of the person making the request; (b) the date on which the request was received; (c) the nature of the request; (d) whether the request was granted or denied; and (e) if the request was denied, the reason(s) for the denial.

18 For the duration of this Order, Defendants are required to preserve all records related to this Consent Order. Upon reasonable notice to Defendants, representatives of the United States shall be permitted to inspect and copy any such records or to inspect any developments or residential units under their control bearing on compliance with this Consent Order at any and all reasonable times, provided, however, that the United States shall endeavor to minimize any inconvenience to Defendants from such inspections.

19 For the duration of this Order, Defendants shall advise counsel for the United States in writing within 15 days of receipt of any formal or informal complaint against them, their employees or agents, regarding housing discrimination on the basis of disability under the Act. Defendants shall also promptly provide the United States all information that the United States may request concerning any such complaint. Within 15 days of the resolution of any such complaints, Defendants shall advise counsel of the United States of such resolution.

#### **VII. DURATION OF ORDER AND TERMINATION OF LEGAL ACTION**

20 This Consent Order shall remain in effect for 2 years after the date of its entry. The Court shall retain jurisdiction for the duration of this Consent Order to enforce the terms of the Order, after which time the case shall be dismissed with prejudice. The United States may move the Court to extend the duration of the Order in the interests of justice and for good cause shown.

21 The Parties shall endeavor in good faith to resolve informally any differences regarding interpretation of and compliance with this Order 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 Order or otherwise to act in conformance with any provision thereof, the United States may move this Court to impose any remedy authorized by law or equity, including, but not limited to, an order requiring performance of such act or deeming such act to have been performed, and an award of any damages, costs, and reasonable attorneys' fees which may have been occasioned by the violation or failure to perform.

#### **VIII. RELEASE OF LITIGATION HOLDS**

22 The parties agree that, as the date of this Order, litigation is not “reasonably foreseeable” concerning the subject matter of this action. To the extent that any of the parties previously implemented a litigation hold to preserve documents, electronically stored information, or things related to the matters described in the Complaint, the parties are no longer required to maintain such a litigation hold. Nothing in this paragraph relieves the parties of any other obligation imposed by this Consent Order.

#### **IX. TIME FOR PERFORMANCE**

23 Any time limits for performance imposed by this Consent Order may be extended by the mutual written agreement of the United States and the relevant Defendants.

#### **X. COSTS OF LITIGATION**

24 Each party to this litigation will bear its own costs and attorneys’ fees associated with this litigation.

**XI. COUNTERPARTS**

25 This Consent Order may be executed in one or more counterparts, each of which shall be deemed an original, and all of which together shall constitute the same instrument.

SO ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

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UNITED STATES DISTRICT COURT JUDGE

The undersigned apply for and consent to the entry of this Order:

*For the United States*

LORETTA E. LYNCH  
Attorney General

DONALD FEITH  
Acting United States Attorney  
District of New Hampshire

VANITA GUPTA  
Principal Deputy Assistant  
Attorney General  
Civil Rights Division

MICHAEL McCORMACK  
Assistant United States Attorney  
53 Pleasant Street, 4th Floor  
Concord, NH 03301

/s Harvey L. Handley  
STEVEN H. ROSENBAUM  
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*For the Defendants*

/s Mark H. Tay

Mark H. Tay

Tay & Tay

188 Water Street

Exeter, NH 03833

Counsel for Defendants Talgar

General Partnership, Bruce

Talbot, and H. William Gardner

**ATTACHMENT A**

**In re United States of America for Judith DeMerchant and Michael Scribner  
v. Talgar General Partnership, et al.  
RELEASE OF ALL CLAIMS**

FOR AND IN CONSIDERATION OF THE SUM OF Five Thousand Dollars (\$5,000.00), and other good and valuable consideration, I, [Judith DeMerchant/Michael Scribner] ("Releasor"), being of lawful age, have released and discharged, and by these presents do for themselves, their executors, administrators and assigns, release, acquit and forever discharge TALGAR GENERAL PARTNERSHIP, BRUCE TALBOT, and H. WILLIAM GARDNER and Preferred Mutual Insurance Company, and any and all of their employees, attorneys, agents or representatives (the "Released Parties") of and from any and all actions, causes of action, claims or demands for damages, costs, loss of use, loss of services, expenses, compensation, consequential damage or any other thing whatsoever on account of, or in any way growing out of, any alleged conduct, error, omission, breach of contract, tort or violation of law or regulation, federal, state or local, of any of the Released Parties occurring or on or before the date of this release. Specifically, I am releasing the Released Parties from any and all claims that were brought or could have been brought in the lawsuit entitled *United States of America v. Talgar d/b/a Sleepy Hollow Mobile Home Park*, which was filed in the U.S. District Court for New Hampshire, docket number 1:12-cv-00219-PB.

I hereby acknowledge and assume all risk, chance or hazard of any and all damages of any kind which presently exist or which may arise in the future, which I do not know of or suspect to exist, whether through ignorance, oversight, error, negligence, or otherwise and which, if known, would materially affect our decision to enter into this settlement agreement. In assuming these risks, I acknowledge and assume the risk that this agreement may have been made subject to a mutual mistake of fact as to the nature and extent of my injuries and damages, whether past or future, and I hereby waive any right that we might otherwise have had to void this release on the basis of any such mutual mistake of fact.

No promise or inducement which is not herein expressed has been made to me, and in executing this release I do not rely upon any statement or representation made by any person, firm or corporation and any and all of their employees, agents or representatives hereby released, or any agent, physician, doctor or any other person representing them or any of them, concerning the nature, extent or duration of said damages or losses, or the legal liability therefore.

I understand that this settlement is the compromise of a disputed claim, and that the payment is not to be construed as an admission of liability on the part of the persons, firms and corporations and any and all of their employees, agents or representatives hereby released, by whom liability is expressly denied. Rather, the purpose of this agreement is to "buy the peace" and terminate all dispute and litigation between the parties hereto.

In consideration of this settlement agreement, I agree to pay from the settlement proceeds any and all medical bills and/or liens, attorney fees and/or liens, and any and all other claims, liens, subrogation rights or other causes of action arising out of this settlement. For and in consideration of the aforementioned sums of money, and other good and valuable consideration, we hereby agree to indemnify and hold harmless the parties released of and from all such claims made by any other party against them, including but not limited to, attorney liens, medical liens, subrogation rights and other claims and causes of action arising out of this settlement which may exist or which may hereinafter accrue on account of, or in any way arising therefrom.

This release contains the ENTIRE AGREEMENT between the parties hereto, and the terms of this release are contractual and not a mere recital. This Agreement may be executed in counterparts each of which, when executed and delivered, shall be an original and all of which shall together constitute one and the same Agreement.

I further state that I have carefully read the foregoing release and know the contents thereof and I sign the same as my own free act.

WITNESS my hand this \_\_\_\_ day of \_\_\_\_\_, 2015.

**CAUTION! READ BEFORE SIGNING**  
**PLEASE INITIAL BOTH PAGES**

SIGN: \_\_\_\_\_  
[Judith DeMerchant/Michael Scribner]

WITNESS (PRINT): \_\_\_\_\_

WITNESS (SIGN): \_\_\_\_\_