

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
and)	
)	
DAVID HADDOX, KOURTNEY)	
VALENTINE, DIANE WEBSTER-)	
RANGEL, HERMAN HOGE, POLLY)	2:08-CV-208-PPS
KOESTERS, VICKI WILSON and)	
MICHELLE BAUER,)	
)	
Intervening Plaintiffs,)	
)	
v.)	
)	
AUTUMN RIDGE CONDOMINIUM)	
ASSOCIATION INC., <i>et al.</i> ,)	
)	
Defendants.)	

AGREED CONSENT ORDER

This matter is before the Court on the parties’ stipulation to the entry of a consent judgment [DE 158].

A consented judgment is a court order that “embodies the terms agreed upon by the parties as a compromise to litigation.” *U.S. v. Alshabkoun*, 277 F.3d 930, 934 (7th Cir. 2002). The parties’ settlement agreement provides the basis for this Court’s authority to enter such a judgment. *Id.* This authority includes the authority to incorporate the provisions of the parties’ settlement agreement into the judgment, and to retain jurisdiction over the parties and the subject matter of this action for the purpose of enforcing the judgment. *See Kokkonen v. Guardian Life Ins. Co.*, 511 U.S. 375, 381 (1994); *Lucille v. City of Chicago*, 31 F.3d 546, 548 (7th Cir. 1994).

The Court, having reviewed the stipulated order and judgment, and being duly advised,

now **APPROVES** the stipulation [DE 158], and enters it as an order of the Court as follows:

I. Factual and Procedural Background

The United States initiated this action on July 14, 2008, against the Autumn Ridge Condominium Association, Inc. (“ARCA”), and the three members of its Board of Directors, Richard Archie, Ronald Patterson, and James Reed. In its complaint, the United States alleges that Defendants violated the Fair Housing Act, Title VIII of the Civil Rights Act of 1988, 42 U.S.C. §§ 3601 et seq. (the “Act” or the “FHA”), on the basis of race or color and familial status with respect to the sale of Unit 206 the Autumn Ridge condominium complex, located at 633 and 643 South Street in Munster, Indiana (“Autumn Ridge”).

The United States alleges that, were this case to proceed to trial, the United States would present evidence including the following:

1. At all times relevant to this lawsuit, the ARCA governed all units in Autumn Ridge through its Declaration of Condominium, By-Laws, and Rules and Regulations. Richard Archie has served as President of the ARCA since 1991. Ronald Patterson has served as Vice-President of the ARCA since April 2006. James Reed has served as Treasurer of the ARCA since 2004 or 2005.

2. Complainant Diane Webster-Rangel owned Unit 206 of Autumn Ridge from late 2004 until January 2007. She lived in the unit with her now husband, Ed Rangel, and his two minor children.

3. At all times relevant to this lawsuit, ARCA’s Declaration of Condominium contained a provision (Article VII.I.) prohibiting minor children from residing in Autumn Ridge. The provision stated as follows: “Minor Children. No Apartment shall be sold or conveyed to a

Person having a minor (as that term is defined herein) child or children, if such minor, or minors, are to live in or occupy such Apartment, and no Person thereafter becoming a parent of a minor or minors, shall continue to own such Apartment, if such minor or minors are to live in or occupy such Apartment, and such Apartment Owners shall be subject to the provisions of Article XIV [Enforcement] of this Declaration. As used in this paragraph, the term “minor” shall mean and include only those Persons between the ages of two (2) and seventeen (17) years, inclusive.”

4. On or about November 21, 2006, Complainant David Haddox contracted with Complainant Diane Webster-Rangel to purchase Unit 206 for \$126,200. Haddox intended to live in the unit with his fiancé, Complainant Kourtney Valentine, and her two minor children. Haddox and Valentine are African-American.

5. On November 30, 2006, Defendants met with Ms. Valentine and her realtor, Vickie Wilson. During this meeting, Defendants made several statements to the effect that Autumn Ridge was not conducive to children.

6. The United States alleges that on December 2, 2006, Defendant Archie contacted Mr. Haddox’s realtor and informed her that the Board had decided not to accept any more children for residency at Autumn Ridge. Later that same day, Mr. Haddox spoke to Defendant Archie on the telephone, during which conversation Defendant Archie confirmed to Mr. Haddox that he was being rejected for residency at Autumn Ridge because of Ms. Valentine’s children. Defendants deny these allegations.

7. On or around December 9, 2006, Mr. Haddox wrote a letter to Defendants requesting reimbursement of fees he incurred in connection with his attempt to purchase the unit at Autumn Ridge. In the letter, he stated: “On December 2, 2006, I was told I could not purchase

this property because the association is no longer accepting children. Prior to December 2, 2006, I was told children would be allowed. This is why I'm asking the association to reimburse me a total of \$839 for fees incurred." Mr. Haddox provided this letter to his realtors, who then forwarded the letter, along with Mr. Haddox's receipts, to Defendants on December 13, 2006. Defendant Archie received and signed for the letter on December 15, 2006. Defendants did not respond to Mr. Haddox's letter.

8. No African-American has ever resided at Autumn Ridge.

The United States alleges that the conduct of Defendants as described above constituted a refusal to allow the sale of, or otherwise making unavailable, a dwelling because of race or color and familial status, in violation of 42 U.S.C. § 3604(a); discrimination in the terms, conditions or privileges of the sale of a dwelling, or in the provision of services or facilities in connection therewith, on the basis of race or color and familial status, in violation of 42 U.S.C. § 3604(b); and the making, printing, or publishing of statements with respect to the sale of a dwelling that indicate a preference, limitation, or discrimination based on familial status, in violation of 42 U.S.C. § 3604(c).

The United States further alleges that Defendants' conduct 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).

Defendants deny that they discriminated against David Haddox and Kourtney Valentine on the basis of race or familial status in violation of the Fair Housing Act. Defendants state that the provision in the ARCA Declaration of Condominium prohibiting minor children (Article

VII.I) was never enforced. After the receipt of the Complaint, which preceded the filing of the Charge in this case, the Declaration was amended to delete that provision.

Defendants further deny that they engaged in a pattern or practice of discrimination, or in any other way, violated any of the provisions of Sections 42 U.S.C. 3604(a), 3604(b), 3604(c), or 3614(a). Nevertheless, the parties desire to avoid costly and protracted litigation and agree that the claims against Defendants should be settled and resolved without the necessity of a trial. Accordingly, the parties have agreed to the entry of this Consent Order, as indicated by the signatures below.

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

II. Injunction

1. Defendants, their agents, employees, successors, and all persons in active concert or participation with them are hereby enjoined, with respect to the sale or rental of dwellings, from:

a. Refusing to allow the sale or rental of, or the negotiating for the sale or rental of, or otherwise making unavailable or denying, a dwelling to any person because of race or color or familial status;

b. Discriminating in the terms, conditions or privileges of the sale of a dwelling, or in the provision of services or facilities in connection therewith, on the basis of race or color or familial status; and

c. Making, printing, or publishing, or causing to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race or color and familial status, or an

intention to make any such preference, limitation, or discrimination.

III. Amendment of Declaration of Condominium and Notice of Approval/Disapproval

2. Defendants' responsibilities under this Consent Order shall apply to each and every dwelling unit in which any Defendant has an ownership, management, or other financial interest, and to any and all dwelling units governed, controlled, or regulated in any way by Defendants. Dwelling units subject to this Order are hereinafter referred to as "covered dwelling units," a current list of which is attached as Appendix A. Defendants' signatures to this Order serve as a certification of the completeness and accuracy of this list.

3. Within thirty (30) days after the entry of this Consent Order, Defendant ARCA shall prepare and implement a uniform, non-discriminatory board approval policy governing the rental or sale of covered dwelling units that shall be applied equally to all applicants or purchasers, actual and prospective, regardless of their race or color or familial status. Such board approval policy shall provide that, within seven (7) calendar days after a decision is made by the Board regarding whether to accept or reject a prospective purchaser or renter of a unit at Autumn Ridge, the Board must provide the prospective purchaser or renter with written notice of its decision. The form of this written notice is set forth at Appendix B ("Notice of Approval/Disapproval").

4. Within thirty (30) days after the entry of this Consent Order, Defendants shall submit this board approval policy to the United States for approval. Within thirty (30) days after receiving approval of the United States, Defendant ARCA shall amend the Declaration of Condominium to remove the current section VII.C., entitled "Approval by Association," and replace it with this new board approval policy, which shall apply to all prospective purchasers or

renters of units at Autumn Ridge.

5. Defendant ARCA's Condominium Rules and Regulations shall not contain any prohibition on the occupancy of any condominium unit by families with children. The sentence "No minor child, as that term is defined in the Declaration of Condominium, shall be an Occupant of an APARTMENT" shall be removed from Exhibit I, Paragraph 4 of the Condominium Rules and Regulations.

IV. Notice to Public of Nondiscrimination Policies

6. Within thirty (30) days after the date of entry of this Consent Order, Defendants shall prominently post in all common areas of Autumn Ridge a fair housing sign no smaller than ten (10) inches by fourteen (14) inches indicating that the property is operated and managed on a nondiscriminatory basis. A poster that comports with 24 C.F.R. Part 110 will satisfy this requirement.

7. Within thirty (30) days after the date of entry of this Consent Order, Defendants shall provide written notice to all current residents of Autumn Ridge that the provisions of the Declaration of Condominium and Condominium Rules and Regulations prohibiting minor children from residing at Autumn Ridge have been removed and that minor children are permitted to reside at Autumn Ridge.

V. Replacement of the President of the Board of Directors

8. Defendant Archie shall resign as an officer and director of the ARCA. Such resignation shall be effective upon the election of a new board president, which should take place as soon as practicable, but no more than forty-five (45) days after the date of entry of this Consent Order. Defendant Archie is permanently enjoined from seeking or accepting any

position as an officer or director of the ARCA.

VI. Mandatory Training

9. Within five (5) days after the date of entry of this Consent Order, Defendant ARCA shall provide a copy of this Order to all current officers and directors of the board of the ARCA and secure the signed statement from each officer or director acknowledging that he or she has received and read the Order, had the opportunity to have questions about the Order answered, and that he or she has also received and read the amended Declaration of Condominium, and agrees to abide by said policies and the relevant provisions of the Order and Declaration of Condominium. This statement shall be in the form of Appendix C.

10. Within thirty (30) days after the date of entry of this Consent Order, all current officers or directors of the board of the ARCA shall undergo in-person training on the Fair Housing Act, with specific emphasis on discrimination on the bases of race or color and familial status. The training shall be conducted by an independent, qualified third party, approved in advance by the United States, and any expenses associated with this training shall be borne by Defendant ARCA. Defendant ARCA shall obtain from the trainer certifications of attendance, executed by each individual who received the training, confirming their attendance, in a form acceptable to the United States. This confirmation shall include the name of the course, the date the course was taken, and the length of the course and/or time within which the course was completed.

11. During the term of this Order, within five (5) days after the election or appointment of each new officer or director of the board of the ARCA, Defendant ARCA shall provide a copy of this Order and the amended Declaration of Condominium to said officer or

director and secure the signed statement from each officer or director acknowledging that he or she has received and read the Order, had the opportunity to have questions about the Order answered, and that he or she has also received and read the amended Declaration of Condominium, and agrees to abide by said policies and the relevant provisions of the Order and Declaration of Condominium. This statement shall be in the form of Appendix C.

12. During the term of this Order, within thirty (30) days after the election or appointment of each new officer or director of the board of the ARCA, the new officer or director shall undergo in-person training on the Fair Housing Act, with specific emphasis on discrimination on the bases of race or color and familial status. The training shall be conducted by an independent, qualified third party, approved in advance by the United States, and any expenses associated with this training shall be borne by Defendant ARCA. Defendant ARCA shall obtain from the trainer certifications of attendance, executed by each individual who received the training, confirming their attendance, in a form acceptable to the United States. This confirmation shall include the name of the course, the date the course was taken, and the length of the course and/or time within which the course was completed.

VII. Compliance Testing

13. The United States may take steps to monitor Defendants' compliance with this Consent Order including, but not limited to, conducting fair housing tests of Defendants' practices at Autumn Ridge.

VIII. Reporting Requirements

14. Within ninety (90) days of the date of entry of this Consent Order, and every six (6) months thereafter for the duration of this Order, Defendant ARCA shall deliver to counsel for

the United States a report containing information about Defendants' compliance efforts during the preceding reporting period, including but not limited to:

a. Copies of all mandatory acknowledgments signed by Defendant ARCA and its officers and directors, pursuant to Section VI of this Order; and

b. Copies of lists setting forth the occupancy of each covered dwelling unit by address and apartment number, including the race or color of each resident in that dwelling unit, whether there are individuals under the age of 18 residing in the unit, and whether the unit has been sold or leased during the reporting period.

c. Copies of any Notice of Approval/Disapproval, as provided in Section III of this Order.

15. During the period in which this Order is in effect, Defendants shall notify counsel for the United States in writing within fifteen (15) days of receipt of any written or oral complaint against Defendants or Defendants' officers or directors regarding race or color or familial status discrimination in housing. If the complaint is written, Defendants shall provide a copy of it with the notification. The notification shall include the full details of the complaint, including the complainant's name, address, and telephone number. Defendants shall also promptly provide the United States all information it may request concerning any such complaint and shall inform the United States within fifteen (15) days of any resolution of such complaint.

IX. Damage Payments to Aggrieved Persons

16. Within thirty (30) days after the date of entry of this Consent Order, the Defendants shall pay to Plaintiff-Intervenors the sum of ONE HUNDRED SIX THOUSAND FIVE HUNDRED DOLLARS (**\$106,500**) in full and final settlement of their claims for damages

and attorneys' fees. The check shall be made out to "David W. Weigle Trust Account" and shall be delivered to David W. Weigle, counsel for Plaintiff-Intervenors, at 5246 Hohman Avenue, Hammond, Indiana, 46320. The Defendant also shall send copies of the check(s) to the United States Department of Justice. Upon receipt of the check, counsel for Plaintiff-Intervenors shall send to the Defendant an executed release of all claims, legal or equitable, from each individual Plaintiff-Intervenor. The release shall be in the form attached hereto as Appendix D.

X. Civil Penalty

17. Within thirty (30) days after the entry of this Consent Order, the Defendants shall pay a total of THIRTEEN THOUSAND FIVE HUNDRED DOLLARS (\$13,500) to the United States as a civil penalty, pursuant to 42 U.S.C. 3614(d)(1)(C). This payment shall be delivered to counsel for the United States in the form of a cashier's check payable to the "United States Treasury."

XI. Scope and Duration of Consent Order

18. The provisions of this Consent Order shall apply to all Defendants, their employees, agents, successors, and all persons acting in active concert or participation with them.

19. This Consent Order is effective immediately upon its entry by the Court and shall remain in effect for four (4) years.

20. The Court shall retain jurisdiction for the duration of this Order to enforce the terms of the Order, after which time the case shall be dismissed with prejudice.

XII. Remedies for Non-Compliance, Time for Performance, and Modifications

21. The United States may move the Court to extend the period in which this Order is

in effect if Defendants violate one or more terms of the Order or if the interests of justice otherwise require an extension of the terms of the Order.

22. Any time limits for performance imposed by this Order may be extended by mutual written agreement of the parties.

23. The parties to this Order 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 the United States contends that there has been a failure by any Defendant, whether willful or otherwise, to perform in a timely manner any act required by this Order or otherwise to comply 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 attorney's fees which may have been occasioned by the Defendant's or Defendants' violation or failure to perform.

24. The parties agree that in the event that any Defendant engages in any future violation of the Fair Housing Act, such violation shall constitute a "subsequent violation" pursuant to 42 U.S.C. § 3614(d).

By their signatures below, the parties consent to the entry of this Consent Order.

This, the 22nd day of October, 2010.

Respectfully submitted,

For Plaintiff United States:

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Northern District of Indiana

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SO ORDERED.

Entered: October 27, 2010

s/ Philip P. Simon
PHILIP P. SIMON, CHIEF JUDGE
UNITED STATES DISTRICT COURT

Appendix A

LIST OF RESIDENTIAL PROPERTIES SUBJECT TO THIS CONSENT ORDER

1. Autumn Ridge, 633 and 643 South Street, Munster, Indiana

Appendix B

NOTICE OF APPROVAL/DISAPPROVAL

Pursuant to Section VII.C. of the Autumn Ridge Condominium Association Declaration of Condominium, the Board of Directors must approve all prospective occupants of units at the Autumn Ridge condominium complex ("Autumn Ridge"). Having considered your request to purchase or lease unit _____, the Board has taken the following action:

_____ The Board has approved all prospective occupants for residency at Autumn Ridge.

_____ The Board has NOT approved all prospective occupants for residence at Autumn Ridge. The reason(s) for this disapproval are as follows:

It is the policy of the Autumn Ridge Condominium Association to comply with Title VIII of the Civil Rights Act of 1968, as amended, (commonly known as the Fair Housing Act) by ensuring that condominium units at Autumn Ridge are available to all persons without regard to race, color, religion, national origin, disability, familial status or sex. This policy means that, among other things, the Autumn Ridge Condominium Association must not discriminate in any aspect of the sale or rental of dwellings against qualified applicants or tenants because of race, color, or familial status.

If you have not been approved for residency at Autumn Ridge, and believe that this disapproval has been based, in whole or in part, on your race or color, or because you have minor children who would have resided with you, full or part time, at Autumn Ridge, please contact the U.S. Department of Justice at 1-800-896-7743 or 202-514-4713.

Appendix C

OFFICER/DIRECTOR ACKNOWLEDGMENT

I acknowledge that on _____, 20____, I was provided copies of the Consent Order entered by the Court in United States, et al. v. Autumn Ridge Condominium Association, Inc., et al., Civil Action No. 2:08-cv-208 (N.D. Ind.), and the Autumn Ridge Condominium Association Declaration of Condominium. I have read and understand these documents and have had my questions about these documents answered. I understand my legal responsibilities and shall comply with those responsibilities.

Signature

Print Name

Position(s)

Date

Appendix D

FULL AND FINAL RELEASE OF CLAIMS

I, _____, on behalf of myself and family members, agents, heirs, executors, administrators, successors and assigns, pursuant to the terms, provisions, and conditions of the Consent Order approved by the United States District Court for the Northern District of Indiana on _____, 20__ in the case of United States v. Autumn Ridge Condominium Association, Inc., et al., ("lawsuit") and in consideration of the payment of _____ do fully, finally and forever release, discharge, and hold harmless Autumn Ridge Condominium Association, Richard Archie, Ronald Patterson, and James Reed (hereinafter "Defendants"), along with their insurers, attorneys, related companies, principals, predecessors, successors, assigns, affiliates, partners, directors, officers, agents, employers, shareholders, subsidiaries, employees, former employees, heirs, executors, and administrators and any persons acting under their respective direction or control (hereinafter "Releasees"), from any and all fair housing claims set forth, or which could have been set forth, in the Complaint in this lawsuit that I may have against Defendants or any of the Releasees for any of Defendants' actions or statements related to those claims through the date of this Consent Order, including claims for damages (both compensatory and punitive), costs, fines and attorneys' fees.

I affirm that the only consideration for signing this Full and Final Release of Claims are the terms stated in the Consent Order signed by the parties, and the monetary payment referenced above. I have accepted the terms of this Release and the Consent Order because I believe them to be a fair and reasonable settlement and for no other reason. This Release and Consent Order, along with the Release and Settlement Agreement between Defendants, their insurance carrier State Farm Fire & Casualty Company, and Plaintiff-Intervenors in the Declaratory Judgment lawsuit pending in Lake Superior Court, No. 45D03-0907-PL-00009, contain and constitute the entire understanding and agreement between the parties.

Executed this _____ day of _____, 20____.

[Print Name]

[Signature]

Date: