IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

FAIR HOUSING AGENCY OF ALABAMA, etc., Plaintiff, vs. THE CITY OF SARALAND, an Alabama Municipality, et al., Defendants.	)	Civil Action No. 05-0285-CG-M
UNITED STATES OF AMERICA, Plaintiff, vs. THE CITY OF SARALAND, an Alabama Municipality, et al., Defendants.	)	Civil Action No. 05-0291-CG-M

ORDER

The United States initiated its action to enforce the Fair Housing Act, as amended ("the Act"), 42 U.S.C. § 3601 et seq. In its Complaint, the United States alleges that the City of Saraland, Alabama, and the Saraland Board of Adjustment violated sections 804(f)(1) and 804(f)(2) of the Act, 42 U.S.C. §§ 3604(f)(1) and 3604(f)(2). Specifically, the United States contends that the Defendants violated the Act by denying to Shannon and Orin Lewis, d/b/a Lewis Community Care Facility ("LCCFI"), an exception to the Saraland zoning ordinance to allow them to operate a foster-care home for ten adults with mental disabilities in a house owned

by the Lewises at 831 Joaneen Drive in the City of Saraland. The United States alleges that such denial constituted discrimination on the basis of disability in violation of the Act.[1]

The action of the United States has been consolidated with another action, arising from the same events and occurrences, filed by the Fair Housing Agency of Alabama, *Fair Housing Agency of Alabama* v. *Ken Williams, et al.*, No. 05-285 (S.D. Ala. filed May 13, 2005). This Order is intended to effect a comprehensive resolution of both actions.

The Defendants deny that they violated any provisions of the Fair Housing Act in this instance. To avoid costly and protracted litigation, the consolidated Plaintiffs and the Defendants accept the entry of this Order ("the Order") to resolve the claims presented, as outlined below.

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

I. CONSOLIDATION

1. To promote judicial efficiency the cases of *Fair Housing Agency of Alabama* v. *Ken Williams, et al.*, No. 05-285 (S.D. Ala. filed May 13, 2005), and *United States* v. *City of Saraland et al.*, No. 05-291 (S.D. Ala. filed May 18, 2005) are consolidated for all purposes, and this Order shall resolve the consolidated litigation.

II. JURISDICTION

2. The Court has personal jurisdiction over the Defendants for purposes of this civil action, and subject matter jurisdiction over the claims in this civil action pursuant to 28 U.S.C. § 1345 and 42 U.S.C. § 3614(a).

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[1] The Order uses the term "disability" as the equivalent of the term "handicap" in the Act. *See* 42 U.S.C. § 3602(h).

III. GENERAL INJUNCTIONS AND NONDISCRIMINATION PROVISIONS

3. Defendants shall not:

A. deny, or otherwise make unavailable, a dwelling to a buyer or renter because of a disability of that buyer or renter, of any person residing in or intending to reside in such dwelling, or of any person associated with such buyer or renter;

B. discriminate 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 of that person, of any person residing in or intending to reside in such dwelling, or of any person associated with that person;

C. refuse to make reasonable accommodations in their rules, policies, practices, or services, when such accommodations may be necessary to afford a disabled person an equal opportunity to use and enjoy a dwelling; or

D. coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of, any right protected by the Act.

E. The preceding injunctions shall specifically, but not exclusively, cover:

i. administering, enforcing, or amending zoning ordinances of the City of Saraland, including, but not limited to, receiving, evaluating, or deciding upon applications for building permits, special exceptions, variances, or other uses not provided for; and

ii. conducting hearings, inspecting premises, issuing certificates of zoning compliance or certificates of occupancy, or in reviewing any decision made by any zoning, land-use, or building official.

IV. SPECIFIC INJUNCTIVE RELIEF

4. The Defendants shall allow LCCFI to operate a foster home at 831 Joaneen Drive for ten mentally disabled adults as stated in their special exception application of August 5, 2003, to the Saraland Board of Adjustment. This permission shall not be revoked for any reason that violates the Act. The Defendants reserve the right to ensure that the property is operated in compliance with all codes and legal requirements applicable, provided, however, that the Defendants shall not enforce any restriction in a manner that discriminates against LCCFI, any of the residents of the facility, or any persons associated with LCCFI or the residents, on the basis of disability.

V. FAIR HOUSING TRAINING

5. The Defendants shall, no later than 120 days after the date the Court approves and enters the Order (the "effective date" of the Order), provide training in the requirements of the Order and the Act to the members and staff of the Board of Adjustment, the staff of the Code Administration section of the City of Saraland's Building Department, and the Mayor and the members of the City Council and their respective staff who have direct or supervisory authority in connection with building, zoning, and land use.

A. The training shall be conducted by a qualified third party, subject to the approval of the parties. The trainer shall be unconnected to the Defendants or their employees, officials, agents, or counsel, and any expenses associated with this training shall be borne by the Defendants.

B. As part of the training, each person trained shall be given a copy of the Order and the Act.

C. The Defendants shall, no later than thirty days after training, provide to the United States certifications executed by each person trained confirming his or her attendance and date of training. The certifications shall be in the form of Attachment A hereto.

D. For each person commencing, during the term of the Order, employment or service in any of the positions listed in this part, Defendants shall, no later than thirty days after such commencement or service, give each such person a copy of the Order and the Act and shall require each such person to sign a certification acknowledging that he or she has received and read the Order and the Act. This certification shall be in the form of Attachment B hereto.

VI. REPORTING AND RECORD KEEPING

6. No later than ten days after the effective date of the Order, the Defendants shall designate an employee or official of the City of Saraland to receive complaints of alleged housing discrimination against any Defendant and coordinate compliance with this Order. The designated person shall maintain copies of the Order, the HUD complaint form, and the pamphlet entitled "Are You a Victim of Housing Discrimination?" (HUD official forms 903 and 903.1, respectively) and make these materials freely available to anyone upon request and without charge, including all persons making housing discrimination complaints to any Defendant. The Defendants shall notify the United States in writing of the name, address, and title of the designated person no later than thirty days after the effective date of the Order.

7. The Defendants shall prepare annual reports that detail the actions they have taken to fulfill their obligations under the Order. Defendants shall submit their first Compliance Report to the United States no later than six months after the effective date of the Order, and subsequent reports every twelve months thereafter, for the duration of the Order, except that the final report shall be delivered to the United States no fewer than sixty days prior to the date upon which the Order ceases to be effective.

8. The Defendants shall include the following information in the Compliance Reports:

   A. the name, address, and title of the employee or official serving as the designated person referred to in paragraph 10;

   B. copies of the training certification and acknowledgment forms signed since the last report;

   C. any written complaint received since the last report alleging discrimination by any Defendant with respect to any matter subject to the injunctions in part III, above. The Defendants shall describe any action taken in response to the complaint and shall include all pertinent documents, such as a copy of the complaint, any documents filed with the complaint, and any written response to the complaint made by any Defendant;

   D. the identity of each zoning, land-use, or building application or request for reasonable accommodation known by the Defendants to relate to housing for disabled persons (including those for building permits, special exceptions, variances, or other uses not provided for) for which any Defendant has made a determination, indicating: (1) the date of the application; (2) the applicant's name; (3) the applicant's current residential street address; (4) the street address

of the proposed housing; (5) the disposition of the application, including any appeals, indicating reasons for that outcome; and (6) if a vote was taken, how each Defendant voted and the date of the vote; and

E. all documents presented in support of oral testimony offered by any member of the public at any hearing held with respect to each such application or request that is denied by any Defendant.

9. For the duration of the Order, the Defendants shall maintain all records relating to implementation of and compliance with all provisions of the Order, including, but not limited to, all records related to zoning, land-use, or building applications or requests for reasonable accommodation related to housing for disabled persons. The United States shall have the opportunity to inspect and copy any records maintained as required by the Order after giving reasonable notice to Defendants.

VII. MONETARY RELIEF

10. Defendants shall pay the sum of $65,000 to Shannon and Orin Lewis and LCCFI. No later than thirty days after the effective date of the Order, Defendants shall provide to Ivan L. Parker, counsel for the Lewises and the Fair Housing Agency, a check made payable to the following persons in the indicated amount:

Shannon and Orin Lewis and LCCFI in the amount of $65,000.

In consideration of these payments, Shannon and Orin Lewis, LCCFI, and the Fair Housing Agency shall execute a release-of-claims form, in the form of Attachment C hereto, signifying that the payment constitutes full settlement of any claims the parties to the release may have relating to the subject matter of the consolidated actions. Mr. Parker shall obtain the signed release forms and provide them to Defendants upon receipt

by him of the checks.

VIII. CIVIL PENALTY

11. Defendant shall pay $7,000 to the United States pursuant to 42 U.S.C. § 3614(d)(1)(C). Such payment shall be made no later than thirty days after the effective date of the Order by submitting to the United States a check in such amount made payable to the United States Treasury.

IX. DURATION OF ORDER AND TERMINATION OF LEGAL ACTION

12. The Order shall remain in effect for a period of three years after its effective date. 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.

13. The parties agree to work cooperatively with one another in good faith to resolve informally any differences regarding interpretation of, and compliance with, the Order prior to bringing such matters to the Court for resolution, and to effectuate the purposes of the Order.

It is hereby ORDERED, ADJUDGED, and DECREED this 23rd day of October, 2006.

United States District Judge

FOR THE UNITED STATES:

DEBORAH RHODES
United States Attorney

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FOR THE FAIR HOUSING AGENCY OF ALABAMA, SHANNON AND ORIN LEWIS, AND LEWIS COMMUNITY CARE FACILITY, INC.:

IVAN L. PARKER
Attorney

FOR THE DEFENDANTS:

ANDREW J. RUTENS
Attorney
Galloway, Smith, Wettermark, & Everest, L.L.P.
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KEN WILLIAMS
Mayor, City of Saraland
716 Saraland Boulevard South
Saraland, Alabama 36571

Attachment A

CERTIFICATION OF ATTENDANCE AT FAIR HOUSING TRAINING

On _____, I attended training on the Order entered by the federal district court in *Fair Housing Agency of Alabama* v. *Ken Williams, et al.*, No. 05-285 (S.D. Ala. filed May 13, 2005), and *United States* v. *City of Saraland et al.*, No. 05-291 (S.D. Ala. filed May 18, 2005), and the federal Fair Housing Act . I have had all of my questions concerning the Order and the Fair Housing Act answered to my satisfaction.

_____
(Signature)

_____
(Print name)

_____
(Print job title)

_____
(Date)

Attachment B

ACKNOWLEDGMENT OF RECEIPT OF COPIES OF ORDER AND FAIR HOUSING ACT

On _____, I received copies of and have read the Order entered by the federal district court in *Fair Housing Agency of Alabama* v. *Ken Williams, et al.*, No. 05-285 (S.D. Ala. filed May 13, 2005), and *United States* v. *City of Saraland et al.*, No. 05-291 (S.D. Ala. filed May 18, 2005), and the federal Fair Housing Act. I have had all of my questions concerning the Order and the Fair Housing Act answered to my satisfaction.

_____
(Signature)

_____
(Print name)

_____
(Print job title)

_____
(Date)

Attachment C

[RELEASE FORM]

FULL AND COMPLETE RELEASE

IT IS HEREBY Accepted by and among **THE FAIR HOUSING AGENCY OF ALABAMA, Inc., ORIN LEWIS, SHANNON LEWIS, AND LEWIS COMMUNITY CARE FACILITY, INC.** and **THE CITY OF SARALAND AND THE SARALAND BOARD OF ADJUSTMENT, BARRY ANDREWS, JACK DAVIS, JOHNNY WRIGHT, PAUL LOGAN, CHARLES SKIPWORTH AND EDWARD DEES,** for the good and sufficient consideration set forth below, as follows:

1. **DEFINITIONS:**

   (a) **"PLAINTIFFS"** as used herein, means **ORIN LEWIS, SHANNON LEWIS, THE FAIR HOUSING AGENCY OF ALABAMA AND LEWIS COMMUNITY CARE FACILITY, INC.,** any estate, any heirs, representatives, privies, executors, administrators, assigns, successors-in-interest and predecessors-in-interest. PLAINTIFFS hereby warrants that they have not assigned any claim they have or may have against the **DEFENDANTS** as the term is defined below, to any person or entity.

   (b) **"DEFENDANTS,"** as used herein includes **THE CITY OF SARALAND AND THE SARALAND BOARD OF ADJUSTMENT, BARRY ANDREWS, JACK DAVIS, JOHNNY WRIGHT, PAUL LOGAN, CHARLES SKIPWORTH AND EDWARD DEES,** individually, and in their official capacities as officers for the City of Saraland, Alabama, their estate, heirs, representatives, privies, executors, administrators and assigns.

2. A dispute between Plaintiffs and the Defendants has arisen as a result of the denial of an application for a special use exception at 931 Joaneen Drive. The application requested to operate an adult foster care home. This home was to house ten individuals with mental disabilities. After a public hearing, the Saraland Board of Adjustments denied the application. The complaint alleges claims under the Fair Housing Act, as well as alleging claims pursuant to 42 U.S.C. §1983. These claims will collectively be referred to as "the Dispute". This dispute resulted in Plaintiffs filing an action in the United States District Court for the Southern District of Alabama entitled *THE FAIR HOUSING AGENCY OF ALABAMA, Inc., ORIN LEWIS, SHANNON LEWIS, AND LEWIS COMMUNITY CARE FACILITY, INC., Plaintiff, V. THE CITY OF SARALAND AND THE SARALAND BOARD OF ADJUSTMENT, BARRY ANDREWS, JACK DAVIS, JOHNNY WRIGHT, PAUL LOGAN, CHARLES SKIPWORTH AND EDWARD DEES, Defendants.*, Civil Action No. 05-0285-KD-M, alleging, among other things, PLAINTIFFS' claims pursuant to the Fair Housing Act and 42 U.S.C. § 1983.(referred to hereinafter as the "Action"). Defendants filed an Answer denying liability and disputing that they have engaged in any discriminating actions. The Court, after considering the motions filed by Defendants, has entered an Order acknowledging that Defendants have and continue to deny liability but requiring Defendants to provide certain affirmative relief to Plaintiffs.

3. Pursuant to the Court's Order concluding the Action, the PLAINTIFFS and the Defendants enter into this Release for the purpose of resolving any

and all claims or disputes that have arisen between them, including the claims set forth in the Action.

4. In consideration of the Full and Complete Release by PLAINTIFFS contained herein, the Defendants shall pay the gross sum of Sixty- Five Thousand and 00/100 Dollars ($65,000.00) (the "Amount"), to PLAINTIFFS and their attorney, for the sole purpose of avoiding the cost and inconvenience of further litigation. Further, the Defendants will comply with those Court ordered provisions related to operation of the adult foster care home at 831 Joaneen Drive as outlined in the Court's Order. The amount stated above shall be paid in one check in the total amount of Sixty-Five Thousand and 00/100 ($65,000.00). The amount payable is inclusive of all claims for expenses, fees, attorney's fees and costs. The Amount shall be paid as follows:

(a) After PLAINTIFFS deliver to the attorney for the Defendant, (Andrew J. Rutens of Galloway, Smith, Wettermark & Everest, L.L.P.) an executed original copy of this Release, the Defendants will deliver to counsel for PLAINTIFFS (IVAN PARKER, Esq.) funds in the total amount of "SIXTY-FIVE THOUSAND AND 00/100 DOLLARS" ($65,000.00) payable with one check in said amount of made payable to "Shannon Lewis, Orin Lewis, LCCFI and Ivan Parker, attorney" for damages under state and federal law, attorneys' fees, costs, and expenses. Defendants deny that Plaintiffs have any entitlement to punitive damages, and Plaintiffs

acknowledge that no part of this payment shall constitute punitive damages.

(b) PLAINTIFFS agree that the foregoing payments to them and their counsel shall constitute the entire amount of monetary consideration provided to them under this Release, and that they will not seek any further compensation for any other claimed damages, costs, expenses or attorneys' fees in connection with the matters encompassed in this Release. PLAINTIFFS acknowledge that the foregoing payments and all other benefits and consideration contained herein are given in exchange for them executing this Release and abiding by its terms.

5. Neither this Release nor anything contained herein constitutes or is intended to constitute any finding of fact, admission of liability, or assessment of liability of the Defendants with respect to any claims that PLAINTIFFS or any other person has asserted, could have asserted, or may assert in connection with Plaintiffs' application for special use exception, the public hearing held on the application, and its denial. Defendants assert that they have consistently denied, and continue to deny, each and every allegation of wrongdoing made by PLAINTIFFS. This Release shall not be used for any purpose in any action or proceeding, other than as may be necessary to enforce the terms of this Release or in response to legal process.

6. (a) As further part of this Release, PLAINTIFFS hereby irrevocably and unconditionally release, acquit, and forever discharge the Defendants and

their insurers, representatives, attorneys, and all persons acting by, through, under or in concert with any of them, or any of them individually, from any and all charges, complaints, claims, liabilities, obligations, promises, agreements, controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts, and expenses (including attorneys' fees and legal expenses), of any nature whatsoever, except as expressly provided for in this document, whether known or unknown (hereafter collectively referred to as "claim" or "claims"), which PLAINTIFFS now have, have had, or may hereafter claim to have had against the Defendants by reason of any matter, act, omission, cause, or event that has occurred up to the present date, including, without limitation, any and all claims related or in any manner relating to Plaintiffs' application for Special Use Exception, the hearing at which the application was considered, and its subsequent denial. Such waiver and release includes, but is not limited to, all claims and rights under 42 U.S.C. § 3604 et. seq., as amended; or any other federal, state, or local law, rule, or regulation, or any claim arising under the common law.

(b) PLAINTIFFS expressly acknowledge that this Release may be pled as a complete defense and will fully and finally bar any such known or unknown claim or claims based on any acts or omissions of the Defendants up to the date of this Release.

7. PLAINTIFFS represent and warrant that they has not assigned to any other person and that no such person is entitled to assert on his behalf any claim based on or arising out of the events of the action or dispute.

The PLAINTIFFS hereby agree to indemnify and hold harmless the DEFENDANTS from and against any and all claims, demands, actions, and expenses, including any attorney's fees incurred in defending any such claims, demands or actions, which relate in any manner to any claim or lawsuit asserted by PLAINTIFFS, or any other persons, to recover damages arising out of the facts made the basis of the Action, or arising out of the application for Special Use Exception, the hearing at which the application was considered and its subsequent denial.

8. PLAINTIFFS represent and warrant that no petitions have been filed with any bankruptcy court and that they are legally entitled to settle this matter without the approval of any court, entity or third party.

9. PLAINTIFFS and the Defendants acknowledge and represent that this Release constitutes the complete understanding between the parties and may not be changed orally.

10. PLAINTIFFS and the Defendants agree that should they, or anyone acting on their behalf, challenge or seek to overturn this Release or in any fashion file a claim, complaint, action or proceeding against one of the other parties encompassed by the Release, the party seeking to overturn this Release or otherwise attempting to file a claim prohibited herein shall reimburse the other parties for any and all attorneys' fees, costs and disbursements incurred in the defense of any challenge to the terms and conditions of this Release or any claim, complaint, action or proceeding against another party. If PLAINTIFFS breach this Release by seeking to overturn this Release or otherwise attempting to file a claim prohibited

herein, PLAINTIFFS shall return forthwith any and all monies received pursuant to this Release, with interest from the date of receipt computed at the highest legal rate in the State of Alabama.

11. This Release shall be binding upon the parties hereto and upon their heirs, administrators, representatives and executors, and shall inure to the benefit of said parties and each of them.

12. Should any provision of this Release be declared or be determined by any Court of competent jurisdiction to be wholly or partially illegal, invalid, or unenforceable, the legality, validity, and enforceability of the remaining parts, terms or provisions shall not be affected thereby, and said illegal, unenforceable, or invalid part, term or provision shall be deemed not to be a part of this Release.

13. This Release shall be governed by and construed in accordance with the laws of the State of Alabama.

We, THE FAIR HOUSING AGENCY OF ALABAMA, ORIN LEWIS, SHANNON LEWIS AND LEWIS COMMUNITY CARE FACILITY, INC , STATE THAT WE HAVE BEEN REPRESENTED BY COUNSEL, THAT WE HAVE CONFERRED WITH COUNSEL AND HAVE READ THE PRECEDING RELEASE, THAT WE FULLY UNDERSTAND ITS MEANING, CONTENT AND BINDING EFFECT. WE FURTHER STATE THAT WE ARE VOLUNTARILY AND OF MY OWN FREE WILL SIGNING THIS DOCUMENT IN FULL AND FINAL RELEASE OF ALL CLAIMS.

By: _____

FAIR HOUSING AGENCY OF ALABAMA, INC.

_____
SHANNON LEWIS

_____
ORIN LEWIS

_____
LEWIS COMMUNITY CARE FACILITY, INC.

_____
IVAN PARKER, ATTORNEY

STATE OF ALABAMA:

COUNTY OF _____:

On this _____ day of _____, 2006, before me personally came PLAINTIFFS, known to me to be the individuals described herein, and who executed the foregoing Release.

_____
NOTARY PUBLIC
My Commission Expires_____

WE, THE CITY OF SARALAND AND THE SARALAND BOARD OF ADJUSTMENT, THAT WE ARE REPRESENTED BY COUNSEL, THAT WE HAVE CONFERRED WITH COUNSEL AND HAVE READ THE PRECEDING RELEASE, THAT WE FULLY UNDERSTAND ITS MEANING, CONTENT AND BINDING EFFECT.

CITY OF SARALAND, ALABAMA

By: _____

City of Saraland, Alabama and the Saraland Board of Adjustments

STATE OF ALABAMA:
COUNTY OF MOBILE:

On this _____ day of _____, 2006, before me personally came Ken Williams, known to me to be the individual described herein, and who executed the foregoing Agreement and General Release on behalf of the City of Saraland and the Board of adjustments.

_____
NOTARY PUBLIC
My Commission Expires_____