

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF IOWA  
DAVENPORT DIVISION

UNITED STATES OF AMERICA,	)
	)
Plaintiff,	)
	)
v.	)
	)
PORTZEN CONSTRUCTION, INC.,	)
GNZ PROPERTIES, INC., SODAROCK	)
PROPERTIES, LLC, DESIGN CENTER	)
ASSOCIATES, INC., and JERRY L. ANDERSON,	)
	)
Defendants.	)
	)

Civil Action No. 09-cv-140

**CONSENT ORDER**

**I. INTRODUCTION**

1. This Consent Order is entered between the United States of America and Defendants Portzen Construction, Inc. (“Portzen”), GNZ Properties, Inc. (“GNZ”), Sodarock Properties, LLC (“Sodarock”), Design Center Associates, Inc. (“DCA”), and Jerry L. Anderson (“Anderson”).
2. This action is brought by the United States to enforce provisions of Title VIII of the Civil Rights Act of 1968 (“the Fair Housing Act”) as amended, 42 U.S.C. § 3601 *et seq.* The United States’ Complaint alleges that the Defendants engaged in discriminatory housing practices in violation of 42 U.S.C. § 3604(f) by failing to design and construct covered multifamily dwellings in Davenport, Iowa with the features of accessible and adaptable design and construction required by 42 U.S.C. § 3604(f)(3)(C).
3. Pursuant to its authority under 42 U.S.C. § 3614(a), the United States’ Complaint alleges that Portzen, GNZ, DCA, and Anderson violated the FHA with respect to the design and construction of Jersey Ridge Manor (“Jersey Ridge”), and that Portzen, Sodarock, DCA, and Anderson violated the FHA with respect to the design and construction of Kimberly Ridge Manor (“Kimberly Ridge”).
4. The United States’ Complaint also alleges that through the actions described in the above paragraph, the Defendants engaged in a pattern or practice of discrimination against persons with disabilities.

5. The United States and the Defendants (collectively, "the Parties") agree that Jersey Ridge and Kimberly Ridge (collectively, "the Subject Properties") are subject to the accessible design and construction requirements of 42 U.S.C. § 3604(f)(3)(C).

## II. DEFENDANTS

6. Defendant Portzen is an Iowa corporation with its principal place of business in Dubuque, Iowa. Portzen is, or was at times relevant to this action, the builder and/or building contractor for the Subject Properties.
7. Defendant GNZ is an Iowa corporation with its principal place of business in Dubuque, Iowa. GNZ owns Jersey Ridge, and owned Jersey Ridge during construction.
8. Defendant Sodarock is an Iowa limited liability company with its principal place of business in Dubuque, Iowa. Sodarock owns Kimberly Ridge, and owned Kimberly Ridge during construction.
9. Defendant DCA was an Iowa corporation with its principal place of business in Dubuque, Iowa. DCA issued the site, framing, elevation, and floor plans, among others, for Jersey Ridge and Kimberly Ridge.
10. Defendant Anderson is a draftsman residing in Dubuque, Iowa. Defendant Anderson drafted the site, framing, elevation, and floor plans, among others, for Jersey Ridge and Kimberly Ridge.

## III. RELEVANT REQUIREMENTS OF THE FAIR HOUSING ACT

11. The FHA 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 multifamily dwellings" and must include certain basic features of accessible and adaptive design to make such units accessible to or adaptable for use by a person who has or develops a disability. 42 U.S.C. §§ 3604(f)(3)(C) and (f)(7)(B).
12. The accessible and adaptive design provisions of the FHA 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; (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 referred to herein as the "Accessible Design Requirements."

13. For the purposes of this Consent Order, the Parties agree that the Subject Properties were designed and constructed for first occupancy after March 13, 1991, and therefore all of the ground-floor units in non-elevator buildings at the Subject Properties are "covered multifamily dwellings" within the meaning of the FHA, 42 U.S.C. § 3604(f)(7)(B). As such, those units and the public and common use areas including the accessible pedestrian routes at the Subject Properties must comply with the Accessible Design Requirements of 42 U.S.C. § 3604(f)(3)(C).

#### IV. VIOLATIONS AT THE SUBJECT PROPERTIES

14. Jersey Ridge Manor

- A. Construction of the relevant buildings at Jersey Ridge began in 1995 and is completed. The relevant portions of Jersey Ridge consists of twenty-four (24) units in two-story, non-elevator buildings each having four or more apartment dwellings. It contains twelve (12) ground-floor "covered multifamily dwellings" within the meaning of 42 U.S.C. § 3604(f)(7)(B). These ground-floor units and the public and common use areas of Jersey Ridge are subject to the requirements of the FHA, 42 U.S.C. § 3604(f)(3)(C).
- B. The United States alleges that Jersey Ridge violates the FHA because, in part, there is/are: (a) no accessible surface and garage parking spaces; (b) no accessible route to garage parking; (c) routes to building entrances have curb ramps without proper texturing, a curb ramp with a running slope in excess of 8.33 percent, unbeveled level changes in excess of 1/4", and cross slopes exceeding 2 percent; (d) no accessible route to the dumpster; (e) building entrance doors with steps and/or excessively high thresholds; (f) insufficient maneuvering clearance on the pull side of the building entrance doors; (g) ground-floor unit entrance doors using knob, rather than level-style, hardware; (h) laundry rooms that require descending a flight of stairs and have inaccessible amenities; (i) interior and patio doors in the ground floor units that lack the requisite 32" nominal clear width; (j) wood patios with a step-down of greater than 1/2"; (k) a concrete patio with a step-down of greater than 4"; (l) thermostats mounted too high above the floor; (m) electrical outlets mounted too close to the floor; and (n) kitchen sinks that lack 30" of clear floor space.

15. Kimberly Ridge Manor

- A. Construction of the relevant buildings at Kimberly Ridge began in 1996 and is

completed. The relevant portions of Kimberly Ridge consists of twenty-four (24) units in two-story, non-elevator buildings each having four or more apartment dwellings. It contains twelve (12) ground-floor "covered multifamily dwellings" within the meaning of 42 U.S.C. § 3604(f)(7)(B). The ground-floor units and the public and common use areas of Kimberly Ridge are subject to the requirements of the FHA, 42 U.S.C. § 3604(f)(3)(C).

- B. The United States alleges that Kimberly Ridge violates the FHA because, in part, there is/are: (a) no accessible surface and garage parking spaces; (b) no accessible route to the garage parking, (c) routes to building entrances have curb ramps without proper texturing, unbeveled level changes in excess of 1/4", and running slopes exceeding 5 percent; (d) no accessible route to the dumpster; (e) building entrance doors with knob-style hardware; (f) insufficient maneuvering clearance on the pull side of the building entrance doors; (g) ground-floor unit entrance doors using knob, rather than level-style, hardware; (h) laundry rooms that require descending a flight of stairs and have inaccessible amenities; (i) patio doors in the ground floor units that lack the requisite 32" nominal clear width; (j) wood patios with a step-down of greater than 1/2"; (k) thermostats mounted too high above the floor; and (l) bathrooms that lack the necessary clear floor space.

#### V. CONSENT OF THE PARTIES TO ENTRY OF THIS ORDER

16. The Defendants have agreed to bring the Subject Properties into compliance with the FHA, as set forth in this Order.
17. The Parties agree that this Court has jurisdiction over the subject matter of this case pursuant to 28 U.S.C. §§ 1331 and 1345, and 42 U.S.C. §§ 3614(a). The Parties further agree that this controversy should be resolved without further proceedings and without an evidentiary hearing or a trial.
18. As indicated by the signatures appearing below, the Parties agree to the entry of this Consent Order.

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

#### VI. GENERAL INJUNCTION

19. The Defendants, and each of their officers, employees, agents, successors, and assigns, and all other persons in active concert or participation with them, are enjoined from discriminating on the basis of disability as prohibited by the Fair Housing Act, 42 U.S.C. § 3604(f).

**VII. CONTRIBUTION BY DEFENDANTS TO RETROFIT FUND**

20. Within ten (10) days of the entry of this Order, Defendants Portzen, GNZ, and Sodarock (“Builder/Owner Defendants”) will establish and maintain an interest-bearing escrow account (“Retrofit Fund”) to be used to pay a portion of the costs of retrofitting the Subject Properties.
21. Within ten (10) days of the entry of this Order, Defendants DCA and Anderson (“Retrofit Funding Defendants”) will pay a sum of One Hundred Seventy-Five Thousand Dollars (\$175,000.00) into the Retrofit Fund, such sum representing the Retrofit Funding Defendants’ complete and final responsibility and contribution to the performance of and payment of the costs of the retrofits and any compensation of aggrieved persons, as set forth in **Sections VIII, IX, XI**. Within ten (10) days of receiving that payment into the Retrofit Fund, the Builder/Owner Defendants shall certify in writing to the United States that the Retrofit Funding Defendants have satisfied this obligation. The parties agree that upon certification by the Builder/Owner Defendants, the Retrofit Funding Defendants shall have no further obligations under **Sections VIII, IX, and XI**, regardless of whether the Builder/Owner Defendants fulfill their obligations under this Order.
22. The Builder/Owner Defendants may withdraw from the Retrofit Fund in order to pay the costs of materials, labor, and subcontractors associated with the retrofits required by this Order. The Builder/Owner Defendants will maintain statements, invoices, receipts, and any other records related to all payments made from the Retrofit Fund. Upon request, the Builder/Owner Defendants shall provide the United States with copies of such records.
23. The Builder/Owner Defendants will have the sole obligation to perform the requirements of **Sections VIII, IX, and XI**, in addition to other Sections of this Order, where specified. The Builder/Owner Defendants’ obligation to perform their obligations under **Sections VIII, IX, and XI** is independent of the Retrofit Funding Defendants’ obligation to pay the agreed-upon sum into the Retrofit Fund.

**VIII. RETROFIT OF GROUND FLOOR UNITS AND PUBLIC AND COMMON USE AREAS AT THE SUBJECT PROPERTIES**

24. The United States, as set forth herein and in its Complaint, alleges that the Subject Properties do not meet the accessibility requirements of the FHA and the Fair Housing Accessibility Guidelines (“FHA Guidelines”) (56 Fed. Reg. 9472 (1991)). To address the United States’ allegations, the Builder/Owner Defendants jointly and severally agree to take the corrective actions necessary to bring the complexes into compliance with the Fair Housing Act by completing the actions described in this section and **Appendices A and**

**B.<sup>1</sup>**

25. Accessible Building Entrances and Accessible and Usable Public and Common Use Areas: Within ninety (90) days from the date of the entry of this Consent Order, the Builder/Owner Defendants shall complete the retrofits to the interior public and common use areas of Jersey Ridge and Kimberly Ridge set forth in this document and in **Appendices A and B**. By no later than July 14, 2010, the Builder/Owner Defendants shall complete the retrofits to the accessible routes, building entrances, and other exterior public and common use areas of Jersey Ridge and Kimberly Ridge set forth in this document and in **Appendices A and B**. The Builder/Owner 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 Properties. The Builder/Owner Defendants shall provide Notice to all residents of the Subject Properties 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.
26. Interior of Ground Floor Dwellings: As soon as reasonably possible after entry of the Consent Order, but in any event not more than one (1) year from the date of the entry of this Consent Order, the Builder/Owner Defendants shall complete the retrofits to the interior of the ground floor dwellings at Jersey Ridge and Kimberly Ridge that are set forth in this document and in Appendices A and B, respectively, even if there has not been a vacancy in those units. The Builder/Owner Defendants shall provide Notice to all residents of covered ground floor apartments of the retrofits to the interior of the ground floor units by delivering a Notice substantially in the form of **Appendix D** forty-five (45) days prior to beginning the retrofits.
27. The Builder/Owner 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 Properties. 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 Builder/Owner 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

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<sup>1</sup> HUD regulations provide that “[a] public or common use area that complies with the appropriate requirements of ANSI A117.1-1986 or a comparable standard is accessible.” See 24 C.F.R. 100.201 (2002). HUD interprets “comparable standard” to mean a “standard that affords handicapped persons access essentially equivalent to or greater than that required by ANSI A117.1.” See 54 Fed. Reg. 3243 (Jan 23, 1989). Should Defendants elect to follow a standard other than ANSI for making the public and common-use areas accessible, they will inform the United States in writing of the standard. Such standard must provide access that is “essentially equivalent” to or “greater” than ANSI A117.1 (1986).

resident's unit, so that the resident can use the money to obtain alternative living accommodations while dislocated.

28. Inspections: The Builder/Owner Defendants shall enter into a contract with a neutral inspector approved by the United States ("Inspector") to conduct on-site inspections of the retrofits that have been performed under this Order to determine if they have been completed in accord with the specifications in this Order and **Appendices A and B**.
29. The inspection shall take place within thirty (30) days of the completion of all of the retrofits to units and common use areas, or as soon thereafter as practicable. The Builder/Owner Defendants shall give the United States at least three weeks' notice of the inspection and shall give the United States an opportunity to have its representative present for the inspection.
30. The Inspector shall set out the results of each inspection, including deficits if any, in writing and shall send that report to Counsel for the United States and the Builder/Owner Defendants. If the inspection indicates that not all of the required retrofits have been made as specified in **Appendices A and B**, the Builder/Owner Defendants shall correct any deficiencies within a reasonable period of time as determined by the Inspector, and 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 Builder/Owner Defendants shall pay all of the Inspector's costs associated with these inspections, and such payments shall be made without regard to the Inspector's findings. Upon reasonable notice to the Builder/Owner Defendants, representatives of the United States shall be permitted to inspect the modifications made by the Builder/Owner Defendants in accordance with this Consent Order or the third-party inspection reports provided for in this Order, to ensure compliance; provided, however, that the United States shall endeavor to minimize any inconvenience caused by such inspections.
31. Defendants GNZ and Sodarock may not charge any additional rent, deposit or other fee for the units in which retrofits are implemented solely because of the contemplated or completed retrofits.

#### **IX. TRANSFER OF INTEREST IN PROPERTIES**

32. The sale or transfer of ownership, in whole or in part, by any owner of a Subject Property will not affect any obligation to retrofit the Subject Property as specified in this Order, unless Defendants GNZ and/or Sodarock ("Owner Defendants") have obtained, in writing, as a condition of sale or transfer, the purchaser or transferee's commitment to be bound by the terms of this Order to complete all required retrofits as specified in Appendices A and B. Should an Owner Defendant that owns a Subject Property decide to sell or transfer any ownership of a Subject Property, in whole or in part, or any portion thereof, prior to the

completion of the retrofits specified in this Order's Appendices describing the retrofits for that Subject Property, that Owner Defendant will at least thirty (30) days prior to completion of the sale or transfer: (a) provide to each prospective buyer written notice that the Subject Property is subject to this Order, including specifically the obligations to complete required retrofit work and to allow inspections, along with a copy of this Order; and (b) provide to the United States, by facsimile and first-class mail, written notice of the owner's intent to sell or transfer ownership, along with a copy of the notice sent to each buyer, and each buyer's name, address and telephone number.

#### **X. NON-DISCRIMINATION IN FUTURE DESIGN AND CONSTRUCTION**

33. For the duration of this Order, Defendants Portzen, GNZ, and Sodarock will maintain, and provide to the United States, the following information and statements regarding any covered multifamily dwellings intended to be, or which actually are, purchased, developed, built, designed, constructed, or engineered in whole or in part, by any of 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, provided, however, that such information and statements need to be maintained and/or provided only on properties in which Defendant Portzen, GNZ, or Sodarock is actually involved, not on those properties in which Defendant Portzen, GNZ, or Sodarock bids or expresses an interest, but does not become finally involved:
- a. the name and address of the property;
  - b. a description of the property and the individual units;
  - c. the name, address, and telephone number of the civil engineer(s) involved with the project;
  - d. a statement from the civil engineer(s) involved with the property acknowledging and describing his/her knowledge of and training in the requirements of the Fair Housing Act and in the field of accessible site design and certifying that he/she has reviewed the engineering documents for the project and that the design specifications therein fully comply with the requirements of the Fair Housing Act and the FHA Guidelines;
  - e. the name, address and telephone number of the architect(s) involved with the property;
  - f. a statement from all architect(s) involved with the property, acknowledging and describing his/her knowledge of and training in the Accessible Design Requirements of the FHA, 42 U.S.C. § 3406(f)(1), (f)(2), and (f)(3)(C), the requirements of the FHA Guidelines, and in the field of accessible site design and certifying that he/she has reviewed the architectural plans for the property and that the design specifications therein fully comply with the requirements of the Act and the FHA Guidelines.
  - g. If the engineering documents or architectural plans are revised, and the revisions could have any impact on the accessibility of the dwellings or property, each of the Defendants will obtain, maintain, and provide to the

United States upon request, a statement from the civil engineer(s) or architect(s) involved with the property that all specifications in the revised engineering documents or architectural plans, as pertinent, comply with the Accessible Design Requirements of the Fair Housing Act and the FHA Guidelines.

34. For the duration of this Consent Order, if Defendants DCA or Anderson prepare any site plans, architectural plans, drawings or blueprints for covered multifamily housing, they shall include on such plans, drawing or blueprints a statement that they comply with the Fair Housing Act, and, where applicable, the ADA and the ADA Standards for Accessible Design. For the duration of this Consent Order, Defendants DCA and Anderson shall, upon request, provide to the United States a list of all such multifamily housing that they have designed or are designing during the term of this Consent Order

#### **XI. COMPENSATION OF AGGRIEVED PERSONS**

35. Within ten (10) days after the date of this Order, the Builder/Owner Defendants shall deposit in an interest-bearing escrow account the total sum of forty thousand dollars (\$40,000) for the purpose of compensating aggrieved persons who may have suffered as a result of the Defendants' discriminatory housing practices. This money shall be referred to as "the Settlement Fund."
36. Any interest accruing to the fund shall become a part of the fund and be utilized as set forth in this document.
37. Within fifteen (15) days of the entry of this Order, the Builder/Owner Defendants shall publish the Notice to Potential Victims of Housing Discrimination ("Notice") at **Appendix E** informing readers of the availability of compensatory funds. The Notice shall be no smaller than three columns by six inches and shall be published on three occasions in the news section of general circulation newspapers serving Davenport, Iowa. The publication dates shall be separated from one another by at least twenty-one (21) days, and at least two of the publication dates shall be a Sunday. Within ten (10) days of each publication date, the Builder/Owner Defendants shall submit a newspaper containing the Notice to counsel for the United States.
38. Within thirty (30) days of the entry of this Order, the Builder/Owner Defendants shall send by first-class mail, postage prepaid, a copy of the Notice to each past and present tenant of the relevant buildings at the Subject Properties. Within forty-five (45) days of the entry of this Order, the Builder/Owner Defendants shall provide to counsel for the United States proof that the Notice has been sent.
39. Nothing in this section shall preclude the United States from making its own efforts to locate and provide notice to potential aggrieved persons (including conducting door-to-

door interviews of current tenants).

40. Allegedly aggrieved persons shall contact the United States in response to the Notice. The United States shall investigate the claims of allegedly aggrieved persons and, within one hundred eighty (180) days from the entry of this Order, shall make a preliminary determination of which persons are aggrieved and an appropriate amount of damages that should be paid to each such person. The United States will inform the Builder/Owner Defendants in writing of its preliminary determinations, together with a copy of a sworn declaration from each aggrieved person setting forth the factual basis of the claim. The Builder/Owner Defendants shall have fourteen (14) days to review the declaration and provide to the United States any documents or information that they believe may refute the claim.
41. After receiving the Builder/Owner Defendants' comments, the United States shall submit its final recommendations to the Court for approval, together with a copy of the declarations and any additional information submitted by the Builder/Owner Defendants. When the Court issues an order approving or changing the United States' proposed distribution of funds for aggrieved persons, the Builder/Owner Defendants shall, within ten (10) days of the Court's order, deliver to the United States checks payable to the aggrieved persons in the amounts approved by the Court. In no event shall the aggregate of all such checks exceed the sum of the Settlement Fund, including accrued interest. No aggrieved person shall be paid until he/she has executed and delivered to counsel for the United States the release at **Appendix F**.
42. After the satisfaction of paragraphs 35 through 41 and the corresponding time periods have expired, any money remaining in the Settlement Fund shall be returned to the Builder/Owner Defendants.
43. The Builder/Owner Defendants shall permit the United States, upon reasonable notice, to review any records that may facilitate its determinations regarding the claims of alleged aggrieved persons.

## **XII. EDUCATIONAL PROGRAM**

44. Within thirty (30) days of the entry of this Order, the Defendants will provide a copy of this Order to all their agents and employees involved in the design or construction of covered multifamily dwellings and secure the signed statement from each agent or employee acknowledging that he or she has received and read the Order, and has had an opportunity to have questions about the Order answered. This statement will be substantially similar to the form of **Appendix G**.
45. During the term of this Order, within thirty (30) days after the date he or she commences an agency or employment relationship with a Defendant, each new agent or employee

involved in the design and construction of any covered multifamily dwelling property will be given a copy of this Order and be required to sign the statement acknowledging that he or she has received and read the Order, and has had an opportunity to have questions about the Order answered. This statement will be substantially similar to the form of **Appendix G**.

46. The Defendants will also ensure that they and their employees and agents who have primary management 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). The Defendants and all employees and agents whose duties, in whole or in part, involve the management, sale and/or rental of multifamily dwellings at issue in this case will be informed of those portions of the Fair Housing Act that relate to accessibility requirements, reasonable accommodations and reasonable modifications.
47. Within ninety (90) days of the date of entry of this Consent Order, the Defendants and all their employees and agents whose duties, in whole or in part, involve or will involve primary management authority over the development, design and/or construction of multifamily dwellings will undergo training on the design and construction requirements of the Fair Housing Act, unless they have already had similar training within the last four years. The training will be conducted by a qualified individual who has been approved in advance by the Department of Justice, and any expenses associated with this training will be borne by the Defendants. The Defendants will 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 the Defendants and covered employees and agents confirming their attendance, in a form substantially equivalent to **Appendix H**.

### **XIII. NOTICE OF DEFENDANTS' NON-DISCRIMINATION POLICY**

48. Within ten (10) days of the date of entry of this Consent Order, Defendants with an ownership or management interest in a covered multifamily dwelling property will post and prominently display in the sales or rental offices of all covered multifamily dwellings owned or operated by them a sign no smaller than 10 by 14 inches indicating that all dwellings are available for rental on a nondiscriminatory basis. A poster that comports with 24 C.F.R. Part 110 will satisfy this requirement.
49. For the duration of this Consent Order, in all future advertising in newspapers, electronic media, pamphlets, brochures and other promotional literature regarding any new covered multifamily dwelling properties that any Defendant may develop or construct, such Defendant will place, in a conspicuous location, a statement that the dwelling units include

features for persons with disabilities required by the federal Fair Housing Act.

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

50. In addition to all other reporting required herein, within one hundred eighty (180) days after the date of entry of this Consent Order, the Defendants will submit to the United States an initial report containing the signed statements of the Defendants and their employees and agents who have completed the training program specified in **Section XII** of this Consent Order. Thereafter during the term of this Order, the Defendants will, on the anniversary of the entry of this Order, submit to the United States a report containing the signed statements of new employees and agents that, in accordance with **Section XII** of this Consent Order, they have received and read the Order, and had an opportunity to have questions about the Order answered.
51. For the duration of this Consent Order, the Defendants will advise the United States in writing within fifteen (15) days of receipt of any written administrative or legal fair housing complaint against any property owned or managed by them, or against any employees or agents of the Defendants working at or for any such property, regarding discrimination on the basis of disability in housing. Upon reasonable notice, the Defendants will also provide the United States all information it may request concerning any such complaint. The Defendants will also advise counsel for the United States, in writing, within fifteen (15) days of the resolution of any complaint.
52. For the term of this Consent Order, the Defendants are required to preserve all records related to this Consent Order, related to the Subject Properties and related to any other covered multifamily dwellings designed, constructed, owned, operated, or acquired by them during the duration of this Consent Order. Upon reasonable notice to the Defendants, representatives of the United States will be permitted to inspect and copy any records of the Defendants or inspect any properties or dwelling units under the control of the Defendants bearing on compliance with this Consent Order at any and all reasonable times, provided, however, that the United States will endeavor to minimize any inconvenience to the Defendants and residents from such inspections.

#### **XV. DURATION OF CONSENT ORDER AND TERMINATION OF LEGAL ACTION**

53. This Consent Order will remain in effect until the later of three (3) years after the date of its entry or two (2) years after the Inspector certifies that all of the necessary modifications have been made. By consenting to entry of this Order, the Parties agree that in the event that a Defendant engages in any future conduct occurring after entry of this Order that leads to a determination of a violation of the Fair Housing Act, such conduct will constitute a "subsequent violation" pursuant to 42 U.S.C. § 3614(d)(1)(C)(ii).
54. The Court will retain jurisdiction for the duration of this Order to enforce the terms of the

Order, at which time the case will be dismissed with prejudice. The United States may move the Court to extend the duration of the Order in the interests of justice.

55. All parties will 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 a Defendant to perform, in a timely manner, any act required by this Order or otherwise for their failure 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 attorney's fees which may have been occasioned by the violation or failure to perform.

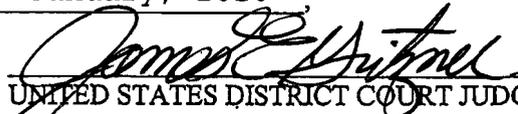
#### **XVI. TIME FOR PERFORMANCE**

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

#### **XVII. COSTS OF LITIGATION**

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

SO ORDERED this 29th day of January, 2010

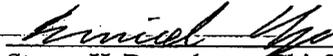
  
UNITED STATES DISTRICT COURT JUDGE

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

*For the United States:*

Thomas E. Perez  
Assistant Attorney General  
Civil Rights Division

Nicholas A. Klinefeldt  
United States Attorney  
Southern District of Iowa

  
Steven H. Rosenbaum, Chief  
Rebecca B. Bond, Deputy Chief  
Daniel H. Yi, Trial Attorney  
United States Department of Justice  
Civil Rights Division  
Housing and Civil Enforcement Section  
950 Pennsylvania Avenue, NW  
Washington, D.C. 20530