

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

and

INA GOBER, LINDA TRACEY, MICHAEL  
TRACEY, GLORIA KOLLER, and MARK KOLLER,

Intervenor-Plaintiffs,

v.

BEDFORD DEVELOPMENT LLC, CARNEGIE  
CONSTRUCTION CORP., ROBERT PASCUCCI,  
JOBCO INC., and WARSHAUER MELLUSI  
WARSHAUER ARCHITECTS, P.C.,

Defendants,

and

SUTTON MANOR BOARD OF MANAGERS,

Rule 19 Defendant.

**STIPULATION AND ORDER OF  
SETTLEMENT AND DISMISSAL**

17 Civ. 1533 (KMK)

WHEREAS, on March 1, 2017, plaintiff United States of America (the "United States") brought this action (the "Action") to enforce provisions of the Fair Housing Act ("FHA"), codified at 42 U.S.C. §§ 3601-3619, and filed an amended complaint on March 6, 2017;

WHEREAS, on May 3, 2017, defendant Warshauer Mellusi Warshauer Architects, P.C. (the "Design Defendant") responded to the amended complaint, and on June 1, 2017, defendants Bedford Development LLC, Carnegie Construction Corp., Robert Pascucci, and Jobco Inc. (collectively, the "Construction Defendants") responded to the amended complaint;

WHEREAS, on August 2, 2017, Rule 19 defendant Sutton Manor Board of Managers ("Board of Managers") responded to the amended complaint;

WHEREAS, on October 11, 2017, Ina Grober, Linda Tracey, Michael Tracey, Gloria Koller, and Mark Koller (the "Intervenor-Plaintiffs") filed an intervenor complaint pursuant to

42 U.S.C. § 3612(o)(2) alleging violations of the FHA against the Design Defendant and the Construction Defendants;

WHEREAS, on November 1, 2017, the Construction Defendants responded to the Intervenor-Complaint and on November 2, 2017, the Design Defendant responded to the Intervenor-Complaint; and

WHEREAS, the United States, the Intervenor-Plaintiffs, the Board of Managers, the Design Defendant, and the Construction Defendants have reached an agreement on the terms of a resolution of this matter, as set forth in Exhibit A attached hereto (the "Settlement");

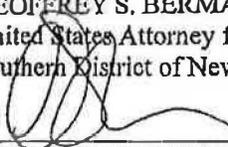
IT IS STIPULATED AND AGREED, by and between the parties, as follows:

1. This action is stayed for a period of ninety (90) days from the date of entry of this Stipulation and Order of Settlement and Dismissal ("Settlement Order") to permit the implementation of paragraph 3 of the Settlement.
2. After ninety (90) days from the date of entry of this Settlement Order, this action shall be dismissed without prejudice subject to reinstatement upon the application of any party in the event of a breach of the provisions of the Settlement, provided that such application for reinstatement is made no later than three (3) years from the date of entry of this Settlement Order. After three (3) years from the date of entry of this Settlement Order, this action shall be deemed dismissed with prejudice and not subject to reinstatement.
3. Except as stated in paragraph 20 of the Settlement, each party to the action shall bear its own costs and attorney's fees.

Dated: New York, New York  
March 15, 2019

For the United States

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United States Attorney for the  
Southern District of New York

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For the Intervenor-Plaintiffs

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For Bedford Development LLC,  
Carnegie Construction Corp.,  
Robert Paszwick and Jobco Inc.

ROSENBERG CALICA & BIRNEY LLP

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For Warshauer Mellusi  
Warshauer, Architects P.C.

BYRNE & O'NEILL, LLP

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Dated: New York, New York  
March \_\_, 2019

For the United States

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For Warshauer Mellusi  
Warshauer, Architects P.C.

BYRNE & O'NEILL, LLP

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Dated: New York, New York  
March \_\_, 2019

For the United States

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United States Attorney for the  
Southern District of New York

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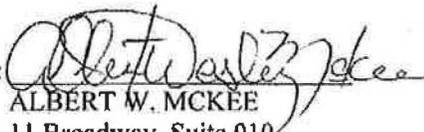
For Bedford Development LLC,  
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ROSENBERG CALICA & BIRNEY LLP

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Warshauer, Architects P.C.

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*For the Rule 19 Defendant*

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SO ORDERED:

  
\_\_\_\_\_  
HON. KENNETH A. KARAS  
United States District Judge

Dated: 3/18/19

## Exhibit A

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

and

INA GOBER, LINDA TRACEY, MICHAEL  
TRACEY, GLORIA KOLLER, and MARK KOLLER,

Intervenor-Plaintiffs,

v.

BEDFORD DEVELOPMENT LLC, CARNEGIE  
CONSTRUCTION CORP., ROBERT PASCUCCI,  
JOBCO INC., and WARSHAUER MELLUSI  
WARSHAUER ARCHITECTS, P.C.,

Defendants,

and

SUTTON MANOR BOARD OF MANAGERS,

Rule 19 Defendant.

**STIPULATION OF SETTLEMENT**

17 Civ. 1533 (KMK)

**INTRODUCTION**

**A. Background**

This Stipulation of Settlement (the "Agreement") is entered into by and between plaintiff the United States of America (the "United States" or the "Government"), intervenor-plaintiffs Michael Tracey, Linda Tracey, Mark Koller, Gloria Koller, and Ina Grober (collectively, "Intervenor-Plaintiffs"), defendants Bedford Development LLC ("Bedford"), Carnegie Construction Corp. ("Carnegie"), Robert Pascucci ("Pascucci"), and Jobco Inc. ("Jobco") (collectively, the "Construction Defendants"), defendant Warshauer Mellusi Warshauer Architects, P.C. (the "Design Defendant" or "WMW Architects," and together with the Construction Defendants, the "Design and Construction Defendants"), and Rule 19 defendant Sutton Manor Board of Managers (the "Board of Managers," and together with the United States,

Intervenor-Plaintiffs, and the Design and Construction Defendants, the “Parties,” and each a “Party”), through their authorized representatives.

WHEREAS, the United States filed suit to enforce provisions of the Fair Housing Act, 42 U.S.C. §§ 3601 *et seq.* (the “FHA”), alleging in the complaint in this action filed on March 1, 2017, and amended on March 6, 2017 (the “Complaint”), that the Design and Construction Defendants have engaged in a pattern and practice of discrimination, and have denied rights to a group of persons in a manner raising an issue of general public importance, including by failing to design and/or construct a residential condominium building located at 234 North Bedford Road in Mount Kisco, New York (“Sutton Manor”), with the features of accessible and adaptive design and construction required by the FHA, 42 U.S.C. § 3604(f)(3)(c);

WHEREAS, Sutton Manor is subject to the accessible design requirements of the FHA, 42 U.S.C. § 3604(f)(3)(c);

WHEREAS, on January 20, 2010, Intervenor-Plaintiffs filed administrative complaints with the U.S. Department of Housing and Urban Development (“HUD”) alleging discrimination on the basis of disability regarding Sutton Manor;

WHEREAS, on March 14, 2016, HUD issued a Charge of Discrimination pursuant to 42 U.S.C. § 3610(g)(2) charging Bedford, Carnegie, and WMW Architects with discriminating against Intervenor-Plaintiffs in the terms, conditions, or privileges of the sale or rental of the dwellings, or in the provision of services or facilities in connection with such dwellings, because of disability in violation of 42 U.S.C. § 3604(f)(2) by failing to design and construct Sutton Manor in accordance with the accessible design requirements of the FHA, 42 U.S.C. § 3604(f)(3)(c);

WHEREAS, on March 23, 2016, Intervenor-Plaintiffs filed a timely Notice of Election with HUD, electing to have the claims asserted in the Charge of Discrimination decided in a civil action under 42 U.S.C. § 3612(a);

WHEREAS, the United States filed the Complaint against Bedford, Carnegie, and WMW Architects, as well as Jobco and Pascucci, including claims of FHA violations on behalf of the Intervenor-Plaintiffs and claims that the Design and Construction defendants engaged in a pattern or practice of FHA violations;

WHEREAS, on October 11, 2017, Intervenor-Plaintiffs filed an intervenor complaint pursuant to 42 U.S.C. § 3612(o)(2) alleging violations of the FHA against the Design and Construction Defendants (the "Intervenor Complaint");

WHEREAS, the claims of the United States and the Intervenor-Plaintiffs have been asserted in the lawsuit entitled *United States of America and Ina Grober, Linda Tracey, Michael Tracey, Gloria Koller, and Mark Koller v. Bedford Development LLC, Carnegie Construction Corp., Robert Pascucci, Jobco Inc., and Warshauer Mellusi Warshauer Architects, P.C., and Sutton Manor Board of Managers*, 17 Civ. 1533 (KMK) (the "Action");

WHEREAS, the Design and Construction Defendants have denied the United States' and Intervenor-Plaintiffs' allegations that they violated the FHA in connection with the design and construction of Sutton Manor;

**B. Design and Construction Defendants**

WHEREAS, Bedford is a New York limited liability company with an office at 277 Northern Boulevard, Great Neck, New York. Bedford is the developer of Sutton Manor and had an ownership interest in Sutton Manor until January 2014;

WHEREAS, Carnegie is a New York business corporation with an office at 277 Northern Boulevard, Great Neck, New York. Carnegie is the builder of Sutton Manor;

WHEREAS, WMW Architects is a New York professional corporation with an office at 100 Clearbrook Road, Elmsford, New York. WMW Architects designed Sutton Manor;

WHEREAS, Jobco is a New York business corporation with an office at 277 Northern Boulevard, Great Neck, New York. The United States and Intervenor-Plaintiffs alleged that Jobco was involved in the development and design and construction of Sutton Manor;

WHEREAS, Pascucci is the sole shareholder of Bedford and Carnegie, the chief executive officer of Jobco, and served as the president of Sutton Manor's Board of Managers until January 2014. The United States and Intervenor-Plaintiffs alleged that Pascucci was personally involved in the development, design and construction, and management of Sutton Manor;

**C. Rule 19 Defendant**

WHEREAS, the Board of Managers is a necessary or indispensable party to this lawsuit, pursuant to Rule 19 of the Federal Rules of Civil Procedure, in whose absence complete relief cannot be afforded to the United States because the Board of Managers and not the Design and Construction Defendants are responsible for the management of Sutton Manor;

**D. The Relevant Requirements of the Fair Housing Act**

WHEREAS, the FHA provides that residential buildings with four or more dwelling units, and one or more elevators, designed and constructed for first occupancy after March 31, 1991, are Covered Multifamily Dwellings and must include certain basic features of accessible and adaptive design to make such units accessible or adaptable for use by a person who has or develops a disability, 42 U.S.C. §§ 3604(f)(3)(C) and (f)(7)(A);

WHEREAS, 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 provisions and features are referred to herein as the “Accessible Design Requirements”);

**E. Conditions at Sutton Manor**

WHEREAS, Sutton Manor is a residential condominium building located at 234 North Bedford Road in Mount Kisco, New York, that was built and advertised as a “55+ Adult Community.” Sutton Manor was also advertised as being “ADA compliant.” The building is a three-story elevator building with 47 units, a community room, and underground and outdoor parking;

WHEREAS, the United States inspected Sutton Manor in June 2014 and identified, among other things, the following conditions at Sutton Manor that the United States alleges fail to meet the Accessible Design Requirements:

- Insufficient clear opening width at and excessive force required to operate the elevator lobby doors;
- Excessively high threshold at entrance to patio from community room;

- Ceiling-mounted light fixtures in circulation path in community room do not provide 80 inches of clear headroom;
- Inaccessible locations of electrical outlets in community room kitchen for persons who use wheelchairs;
- Insufficient clear floor space in community room bathroom for maneuvering by persons who use wheelchairs;
- Inaccessible location of paper towel dispenser in community room bathroom for persons who use wheelchairs;
- Art display lighting fixtures on hallway walls protrude more than four inches into passageway, posing a safety hazard for persons who are blind;
- Outgoing mail drop mounted too high for persons who use wheelchairs;
- Counter/work surface in first floor mail area is too high for persons who use wheelchairs;
- Trash disposal chute door handles require tight gripping and twisting action to operate;
- In units with a patio or balcony,
  - insufficient clear opening width of each panel of the double-leaf doors leading to the patio or balcony;
  - locks are both too low and too high for use by persons in wheelchairs;
  - excessively high thresholds at entrance to patio or balcony;
- Insufficient clear floor space in the hallway at the washer/dryer closet of certain units for maneuvering by persons who use wheelchairs;

- Insufficient clear floor space in kitchen of certain units for maneuvering by persons who use wheelchairs; and
- Excessively high thresholds at the entrance to showers in certain units.

**F. Consent of the Parties to Entry of this Settlement Agreement**

WHEREAS, the Parties agree that this Court has jurisdiction over the subject matter of the Action pursuant to 28 U.S.C. §§ 1331 and 1345, and 42 U.S.C. § 3614(a);

AND WHEREAS, the Parties have agreed that to avoid protracted and costly litigation, this controversy should be resolved without further proceedings and without an evidentiary hearing or trial;

**IT is hereby STIPULATED and AGREED:**

**I. GENERAL OBLIGATIONS**

1. Without admitting liability, the Design and Construction Defendants and each of their officers, employees, agents, successors, and assigns, and all other persons in active concert or participation with them, agree not to discriminate on the basis of disability as prohibited by the FHA, 42 U.S.C. § 3604.

2. The Board of Managers and each of their officers, employees, agents, successors, and assigns, and all other persons in active concert or participation with them, agree not to interfere or prevent the retrofitting ordered herein or the implementation or completion of this Agreement. The Board of Managers agree to allow access to the public and common use areas of Sutton Manor, and, to the extent possible, access to unit interiors at Sutton Manor for those units whose owners opt to have an inspection pursuant to the process set forth in paragraph 14, below, for the purpose of planning, evaluating, and performing any action required under this Agreement to bring the public and common use areas and the unit interiors into compliance with

the FHA and Fair Housing Accessibility Guidelines, Design Guidelines for Accessible/Adaptable Dwellings, 56 Fed. Reg. 9472 (March 6, 1991) (the "Guidelines") and for the purpose of interviewing or meeting with homeowners or residents at Sutton Manor to aid in the implementation or completion of this Agreement.

3. The Design and Construction Defendants agree to pay no more than \$525,000.00 (the "Settlement Amount") as per the terms and conditions of this Agreement, consisting of: (a) \$300,000.00 to the Intervenor-Plaintiffs; (b) \$32,734.00 for the cost of the retrofits listed in Appendix A for the public and common use areas; (c) \$14,540.00 for the cost of the retrofits in Unit 103 listed in Appendix A; (d) \$7,676.00 for the cost of the retrofits in Unit 209 listed in Appendix A; (e) \$30,000.00 for aggrieved persons other than the Intervenor-Plaintiffs; and (f) up to \$140,050.00 for the cost of the retrofits listed in Appendix B potentially available for units other than Units 103, 209, and 307 (the "General Units") pursuant to the process set forth in paragraphs 8 through 16, below. Payment of the Settlement Amount shall be made as follows:

- o (a) (1) A check or checks issued on behalf of the Design Defendant in the amount of \$262,500.00 made payable to "Emery Celli Brinckerhoff and Abady LLP, attorneys for Ina Grober, Michael and Linda Tracey, and Mark and Gloria Koller" and sent to the following address: ECBA - Attn: Office Manager, 600 Fifth Avenue, 10th Floor, New York, NY 10020 within thirty (30) days after this Agreement is fully executed and the Stipulation and Order of Settlement and Dismissal (the "Settlement Order") accompanying this Agreement is entered by the Court;
- o (a) (2) A check or checks issued on behalf of the Construction Defendants in the amount of \$37,500.00 made payable to "Emery Celli Brinckerhoff and

Abady LLP, attorneys for Ina Grober, Michael and Linda Tracey, and Mark and Gloria Koller” and sent to the following address: ECBA - Attn: Office Manager, 600 Fifth Avenue, 10th Floor, New York, NY 10020 within thirty (30) days after this Agreement is fully executed and the Settlement Order is entered by the Court;

- o (b) A check or checks issued on behalf of the Construction Defendants in the amount of \$32,734.00 for the cost of the retrofits listed in Appendix A for the public and common use areas made payable to “Sutton Manor Board of Managers Common Area Retrofit Fund” and sent to the following address: McGrath Management, 444-D Old Post Road, Bedford, NY 10506 within forty-five (45) days after this Agreement is fully executed and the Settlement Order is entered by the Court;
- o (c) A check or checks issued on behalf of the Construction Defendants in the amount of \$14,540.00 for the cost of the retrofits listed in Appendix A for Unit 103 made payable to “Michael and Linda Tracey” and sent to the following address: Michael and Linda Tracey, 234 N Bedford Road, Unit 103, Mount Kisco, New York 10549 within forty-five (45) days after this Agreement is fully executed and the Settlement Order is entered by the Court;
- o (d) A check or checks issued on behalf of the Construction Defendants in the amount of \$7,676.00 for the cost of the retrofits listed in Appendix A for Unit 209 made payable to “Mark Koller” and sent to the following address: Mark Koller, 234 N Bedford Road, Unit 209, Mount Kisco, New York 10549 within

forty-five (45) days after this Agreement is fully executed and the Settlement Order is entered by the Court;

- (e) A check or checks issued on behalf of the Construction Defendants in the amount of \$30,000.00 for aggrieved persons other than the Intervenor-Plaintiffs made payable to the “Sutton Manor Board of Managers Aggrieved Persons Fund” and sent to the following address: McGrath Management, 444-D Old Post Road, Bedford, NY 10506 within ninety (90) days after this Agreement is fully executed and the Settlement Order is entered by the Court;
- (f)(1) A check or checks issued on behalf of the Construction Defendants in the amount of \$40,000.00 for retrofits listed in Appendix B potentially available for the General Units made payable to “Sutton Manor Board of Managers General Unit Retrofit Fund” and sent to the following address: McGrath Management, 444-D Old Post Road, Bedford, NY 10506 within forty-five (45) days after this Agreement is fully executed and the Settlement Order is entered by the Court;
- (f)(2) A check or checks issued on behalf of the Construction Defendants in the amount of \$40,000.00 for retrofits listed in Appendix B potentially available for the General Units made payable to “Sutton Manor Board of Managers General Unit Retrofit Fund” and sent to the following address: McGrath Management, 444-D Old Post Road, Bedford, NY 10506 within ninety (90) days after this Agreement is fully executed and the Settlement Order is entered by the Court;
- (f)(3) A check or checks issued on behalf of the Construction Defendants within ninety (90) days after this Agreement is fully executed and the Settlement Order is entered by the Court in the amount of \$60,050.00 for retrofits listed in

Appendix B potentially available for the General Units made payable to an escrow account to be maintained by the Construction Defendants (the “Design and Construction Escrow Account”) and to be available to transfer into the General Unit Retrofit Fund as set forth in paragraph 13, below.

## II. IMPLEMENTATION OF RETROFITS AT SUTTON MANOR

4. Within fifteen (15) days after this Agreement is fully executed and the Settlement Order is entered by the Court, the Board of Managers shall establish a bank account to be used to pay the costs of the retrofits listed in Appendix A for the public and common use areas (“Common Area Retrofit Fund”).

5. Within fifteen (15) days after this Agreement is fully executed and the Settlement Order is entered by the Court, the Board of Managers shall establish a bank account to be used to pay the costs of the retrofits in Appendix B potentially available for the General Units pursuant to the process set forth in this Agreement (“General Unit Retrofit Fund”).

6. Within ninety (90) days after this Agreement is fully executed and the Settlement Order is entered by the Court, the Board of Managers shall retain a contractor (or contractors as necessary) to complete the retrofits in the public and common use areas at Sutton Manor as specified in Appendix A within six (6) months from the date the contractor (or contractors as necessary) is (are) retained and to complete the retrofits in the General Units within the timeframe described in paragraphs 8 through 15, below.

7. The Board of Managers shall pay all costs associated with the retrofits in the public and common use areas specified in Appendix A from the Common Area Retrofit Fund.

8. Within sixty (60) days after this Agreement is fully executed and the Settlement Order is entered by the Court, the Board of Managers shall retain United Spinal Association to

inspect the General Units to determine which of the retrofits listed in Appendix B are available for each of the General Units. The costs associated with United Spinal Association's inspection of the General Units shall be paid from the General Unit Retrofit Fund.

9. Within sixty (60) days after this Agreement is fully executed and the Settlement Order is entered by the Court, the Board of Managers shall provide written notice to all unit owners that: (a) the retrofits required by the Agreement will be performed to the public and common use areas at Sutton Manor within nine (9) months after this Agreement is fully executed and the Settlement Order is entered by the Court, subject to any extension determined to be necessary by the Board of Managers; and (b) the owners of the General Units may elect to have their units inspected by an architect from United Spinal Association to determine which retrofits are available for their units and that the contractor(s) retained by the Board of Managers pursuant to paragraph 6, above, will accompany United Spinal Association on the inspection to develop a cost estimate for the retrofits determined to be available for each unit. The written notice shall require the owners of the General Units to inform the Board of Managers whether they want their unit inspected by returning the form attached to the notice within thirty (30) days. Such notice and form shall conform to Appendix C.

10. Within sixty (60) days of the deadline by which the owners of the General Units are required to return the form described in paragraph 9, above, the Board of Managers shall schedule inspections of the units for which the owners requested inspections, taking into account the convenience of the unit owners and residents. The inspection of these units shall be completed within ninety (90) days of the deadline by which the unit owners are required to return the form, subject to any extension determined to be necessary by the Board of Managers.

11. Within thirty (30) days of the completion of all inspections of the units for which the owners requested inspections (the "Inspected Units"), the Board of Managers shall send to the owners of the Inspected Units a list of the retrofits available for their units. The written notice shall require unit owners to inform the Board of Managers which, if any, of the retrofits they want in their units by returning the form attached to the notice within thirty (30) days (the "Retrofit Requests"). Such notice and form shall conform to Appendix D.

12. Within sixty (60) days of the date by which the owners of the Inspected Units are required to return the form described in paragraph 11, above, the Board of Managers shall provide the Government and the Design and Construction Defendants with a cost estimate for all of the retrofits selected by the owners of the Inspected Units and the cost of administering the General Unit Retrofit Fund. Should the estimate exceed \$80,000.00, the Design and Construction Defendants shall transfer, or caused to be transferred, the amount in excess of \$80,000.00 from the Design and Construction Escrow Account to the General Unit Retrofit Fund, up to \$60,050.00. Any amount remaining in the Design and Construction Escrow Account shall remain available for transfer to the General Unit Retrofit Fund to cover the actual cost of the retrofits to be made in the Inspected Units and of administering the General Unit Retrofit Fund up to a total amount of \$140,050.00, until the Board of Managers notifies the Government and the Design and Construction Defendants that all such retrofits are complete. The Design and Construction Defendants shall transfer, or cause to be transferred, funds that the Board of Managers has determined in good faith are necessary for the Retrofit Requests and administration of the General Unit Retrofit Fund from the Design and Construction Escrow Account to the General Unit Retrofit Fund within ten (10) days of receiving notice from the Board of Managers of the amount of additional funds needed.

13. Should the actual cost of the retrofits to be made in the Inspected Units and of administering the General Unit Retrofit Fund be less than \$140,050.00, resulting in a residual balance in the Design and Construction Escrow Account at the time the Board of Managers notifies the Government and the Design and Construction Defendants that the retrofits are complete, the residual balance shall be disbursed between the Design Defendant and the Construction Defendants in a manner that results in the Design Defendant and the Construction Defendants contributing an equal amount toward the total of all payments required by this Agreement.

14. Should the cost estimate for all of Retrofit Requests exceed \$140,050.00, the Board of Managers shall consider each Retrofit Request and decide which retrofits will be available in each Inspected Unit in a fair and impartial manner, taking into account the cost and necessity of each Retrofit Request.

15. Within sixty (60) days of the date by which the owners of the Inspected Units are required to return the form described in paragraph 11, above, the Board of Managers shall provide written notice to the owners of the Inspected Units stating that the retrofits they selected and that the Board of Managers has determined are covered by the amount in the General Unit Retrofit Fund will be performed by the contractor(s) retained pursuant to paragraph 6, above, within twelve (12) months of the date the notice is sent to the owners of the Inspected Units, subject to any extension determined to be necessary by the Board of Managers, and that the scheduling of the retrofits will take into account the preferences and convenience of the unit owners and residents. Such notice shall conform to Appendix E.

16. The Board of Managers shall pay all costs associated with the retrofits to be made in the Inspected Units from the General Unit Retrofit Fund.

### III. NON-DISCRIMINATION IN FUTURE DESIGN AND CONSTRUCTION

17. For a period of three (3) years after this Agreement is fully executed and the Settlement Order is entered by the Court, Jobco and Carnegie shall maintain, and provide to the United States upon reasonable request, the following information and statements regarding any covered multifamily dwellings developed, built, designed, and/or engineered in whole or in part by Jobco, any wholly owned subsidiary of Jobco, or Carnegie:

- a. The name and address of the project;
- b. A description of the project and the individual units, including number, type of dwellings, and amenities in the project;
- c. The names, addresses, and telephone numbers of the architects and site engineers involved with the project; and
- d. A statement by an architect knowledgeable in the design and construction requirements of the FHA and the Guidelines, describing his or her knowledge and training in accessible design, and certifying that he or she has reviewed the architectural, mechanical, and civil engineering plans and that the plans include design specifications that fully comply with the requirements of the FHA and the Guidelines.

18. If the architectural, mechanical, and engineering plans referred to in paragraph 17(d) are revised, and the revisions could have any impact on whether the dwellings comply with the FHA, Jobco and/or Carnegie, as applicable, shall obtain, maintain, and provide to the United States upon reasonable request, a statement from the site engineer(s) or architect(s) who are employed or retained by Jobco and/or Carnegie, as applicable, that all specifications in the

revised architectural, mechanical, or engineering plans, as pertinent, comply with the requirements of the FHA and the Guidelines.

19. For a period of three (3) years after this Agreement is fully executed and the Settlement Order is entered by the Court, if the Design Defendant prepares any architectural or site plans, drawing, or blueprints for covered multi-family housing, as defined in the FHA, then it shall include on such plans, drawing, or blueprints a statement attesting to compliance with the FHA and the Guidelines, and it shall maintain and provide such plans, drawing, or blueprints to the United States upon reasonable request.

#### **IV. COMPENSATION FOR AGGRIEVED PERSONS AND RELEASES**

20. As set forth in paragraph 3, above, the Design and Construction Defendants agree to pay to the Intervenor-Plaintiffs the sum of \$300,000.00, which shall be inclusive of any and all claims for damages, attorney's fees, and costs by the Intervenor-Plaintiffs arising out of the Action.

21. Each Intervenor-Plaintiff and the Board of Managers shall execute a release of claims against the Design and Construction Defendants in the form attached hereto as Appendix E within ten (10) days after this Agreement is fully executed and the Settlement Order is entered by the Court. In addition, each Design and Construction Defendant shall execute a release of claims against the Intervenor-Plaintiffs and the Board of Managers, together with a release of claims or cross-claims that were or could have been brought as between them, in the form attached hereto as Appendix G within ten (10) days after this Agreement is fully executed and the Settlement Order is entered by the Court. Counsel for the respective Intervenor-Plaintiffs, Board of Managers, and Design and Construction Defendants shall hold said signed releases until the funds described in paragraph 3, above, have been received by ECBA and the Board of

Managers. Within ten (10) days of receipt of said funds, counsel will exchange the signed releases and provide copies to counsel for the United States.

22. As set forth in paragraph 3, above, the Design and Construction Defendants agree to pay \$30,000.00 for compensation of aggrieved persons, other than the Intervenor-Plaintiffs, who may have suffered as a result of the Design and Construction Defendants' alleged violations of the FHA in connection with the design and construction of Sutton Manor. Within fifteen (15) days after this Agreement is fully executed and the Settlement Order is entered by the Court, the Board of Managers shall establish a bank account to be used to pay any such aggrieved persons (the "Aggrieved Persons Fund").

23. Within thirty (30) days after this Agreement is fully executed and the Settlement Order is entered by the Court, the Design and Construction Defendants shall publish the notice at Appendix H, entitled "Notice to Current and Former Sutton Manor Owners and Residents" (the "Notice"), 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 following publications: The Journal News, The New York Times, and The Northern Westchester Examiner. The three publication dates shall be separated from one another by twenty-one (21) days, and at least two of the publication dates shall be on a Sunday (or Saturday, if the newspaper is not published on Sunday). Within thirty (30) days of each publication of the Notice in a newspaper, the Design and Construction Defendants shall provide copies of the publications containing the Notice to the United States.

24. Within sixty (60) days after this Agreement is fully executed and the Settlement Order is entered by the Court, WMW Architects shall place on the website <http://www.wmwarchitects.com/> and Jobco shall place on the website <http://www.jobco.com/> a

link to an electronic version of the Notice in an Adobe Acrobat Portable Document Format (“PDF”). The link should state “Sutton Manor Notice.” With respect to the website <http://www.wmwarchitects.com/>, the link shall appear on the upper half of the website in a font style, color, and size equivalent to the terms “Home,” “About Us,” “Contact Us,” and “Google Our Buildings,” as those terms appear on WMW Architect’s website as of March 8, 2019. With respect to the website <http://www.jobco.com/>, the link shall appear in the “Project Details” under a listing for Sutton Manner under the “Portfolio” tab in a font style, color, and size equivalent to the other items listed in “Project Details,” as those terms appear on Jobco’s website as of March 8, 2019. The link to an electronic version of the Notice shall remain on the Jobco and WMW Architects websites for four (4) months after this Agreement is fully executed and the Settlement Order is entered by the Court.

25. Within sixty (60) days after this Agreement is fully executed and the Settlement Order is entered by the Court, the Design and Construction Defendants shall send a copy of the Notice to each of the following organizations:

- a. Westchester County Human Rights Commission  
112 East Post Road, 3<sup>rd</sup> Floor  
White Plains, New York 10601
- b. Westchester Residential Opportunities, Inc.  
470 Mamaroneck Avenue, Suite 410  
White Plains, New York 10605
- c. Fair Housing Justice Center  
30-30 Northern Boulevard, Suite 302  
Long Island City, New York 11101

26. Within sixty (60) days after this Agreement is fully executed and the Settlement Order is entered by the Court, the Board of Managers shall send, by first-class mail, postage pre-paid, a copy of the Notice to each past or present unit owner at Sutton Manor. For past unit

owners, the Board of Managers shall comply with the requirements of this paragraph by mailing the Notice to the forwarding address provided by the former owner at the time the former owner moved out of Sutton Manor, if any. Within ninety (90) days after this Agreement is fully executed and the Settlement Order is entered by the Court, the Board of Managers shall provide the United States with proof that the Notices have been sent.

27. The United States may make its own efforts to locate and provide the Notice to potential aggrieved persons.

28. The Board of Managers shall identify to the United States any allegedly aggrieved persons who have disabilities, to the extent that the Board of Managers possesses the information required to make such identifications.

29. The United States shall investigate the claims of allegedly aggrieved persons and shall determine which persons are aggrieved and an appropriate amount of damages that should be paid to each such person. The United States will provide the Design and Construction Defendants and the Board of Managers with each of its determinations in writing and a copy of a sworn declaration from each aggrieved person setting forth the factual basis of the claim.

30. If the Design and Construction Defendants dispute the amount of a payment to an aggrieved person, the Design and Construction Defendants shall, within fourteen (14) days of receiving notice of a determination from the United States (a "Determination"), provide a written objection to the United States, along with any information or documents that they believe may refute the aggrieved person's claims. The United States shall give due consideration to any objections it receives from the Design and Construction Defendants and shall submit to the Design and Construction Defendants, following any objection, its reconsidered determination (a "Reconsidered Determination"), in writing, setting forth the aggrieved person and the amount the

aggrieved person shall be paid. If the Design and Construction Defendants dispute the Reconsidered Determination, they may file an objection with the Court, which may sustain or overrule the objection.

31. No later than twenty (20) days after receiving a Determination to which no objection has been made, ten (10) days after receiving a Reconsidered Determination to which no objection has been filed with the Court, or ten (10) days after any decision by the Court overruling a filed objection, whichever is earliest, the Board of Managers shall deliver to the United States checks payable to aggrieved persons in the amounts identified by the United States. In no event shall the aggregate of all such checks exceed the amount of \$30,000.00, exclusive of interest accrued. No aggrieved person shall be paid until he or she has executed and delivered to the United States, the Design and Construction Defendants, and the Board of Managers the release attached at Appendix I. Any funds remaining in the Aggrieved Persons Fund after three (3) years have passed after this Agreement is fully executed and the Settlement Order is entered by the Court, and no application for compensation from the Aggrieved Persons Fund is pending, shall be divided pro rata among the aggrieved persons who received compensation pursuant to this paragraph.

32. No adverse action shall be taken against any person because such person cooperates with the United States in its investigations, makes a claim, or seeks to make a claim under Section IV of this Agreement.

#### **V. DURATION, EXECUTION, AND OTHER TERMS**

33. As set forth Settlement Order, the Parties agree that this action shall be stayed for a period of ninety (90) days after this Agreement is fully executed and the Settlement Order is entered by the Court to permit the implementation of paragraph 3 of this Agreement, and

thereafter, shall be dismissed without prejudice, subject to reinstatement in accordance with the terms of the Settlement Order.

34. This Agreement shall remain in effect for three (3) years after this Agreement is fully executed and the Settlement Order is entered by the Court. By executing this Agreement, the parties agree that in the event that any of the Design and Construction Defendants engage in any design or construction conduct occurring after execution of this Agreement that leads to a judicial determination by a Federal District Court of a violation of the FHA, such conduct shall constitute a "subsequent violation" by such Design and Construction Defendant pursuant to 42 U.S.C. § 3614(d)(1)(C)(ii).

35. The term of this Agreement may be extended by the mutual written agreement of the Parties.

36. In the event the United States reinstates this Action, as contemplated by the Settlement Order, the Design and Construction Defendants agree pursuant to Federal Rule of Civil Procedure 15(a)(2) that the United States may make an application before a Federal District Court to amend the Complaint to assert any claims that have not been released under this Agreement.

37. Before any party applies for reinstatement of this Action, as contemplated by the Settlement Order, such party shall provide written notice of any breach of the provisions of this Agreement to all other parties and their respective counsel at the addresses provided herein.

38. The Parties agree that the only appropriate remedy for any Party's failure to perform any non-monetary obligation in this Agreement is specific performance.

39. Except as stated in paragraph 20, above, each Party shall bear its own legal or other costs incurred in connection with this matter, including the preparation, negotiation and performance of this Agreement.

40. This Agreement constitutes the complete agreement among the Parties. No prior or contemporaneous communications, oral or written, or prior drafts shall be relevant or admissible for purposes of determining the meaning of any provision herein or in any other proceeding.

41. Each Party and signatory to this Agreement represents that it freely and voluntarily enters into this Agreement. The Parties agree that each Party and its representatives have acted consistent with the duty of good faith and fair dealing.

42. The undersigned represent and warrant that they are fully authorized to execute this Agreement on behalf of the persons and entities indicated below.

43. This Agreement is binding on the Parties and their transferees, successors, heirs, and assigns.

44. This Agreement is governed by and shall be interpreted under the laws of the United States. For purposes of construing or interpreting this Agreement, it shall be deemed to have been drafted by all Parties and shall not be construed or interpreted against any Party for that reason in any subsequent dispute.

45. Except where this Agreement expressly conditions or predicates performance of a duty or obligation upon the performance of a duty or obligation by another party, the performance of one party's duties or obligations under this Agreement shall not be discharged or excused by the actual or alleged breach of the duties and obligations by another party.

46. This Agreement is a public document. The Parties agree and consent to the United States' disclosure of this Agreement and information concerning this Agreement to the public.

47. Should any provision of this Agreement be declared or determined by any court to be illegal or invalid, the validity of the remaining parts, terms or provisions shall not be affected thereby and said illegal or invalid part, term or provision shall be deemed not to be a part of this Agreement.

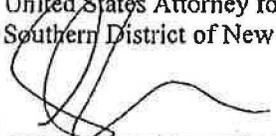
48. This Agreement may be modified only with the written consent of the Parties. Any modification must be in writing and signed by the Parties through their authorized representatives.

49. The Agreement may be executed in multiple counterparts, each of which together shall be considered an original but all of which shall constitute one agreement. Facsimiles or PDFs of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

Dated: New York, New York  
March 15, 2019

For the United States

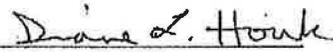
GEOFFREY S. BERMAN  
United States Attorney for the  
Southern District of New York

By: 

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Assistant United States Attorney  
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For the Intervenor-Plaintiffs

EMERY CELLI BRINCKERHOFF  
& ABADY LLP

By: 

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dhok@ecbalaw.com  
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For Robert Pascucci

By:   
ROBERT PASCUCCI

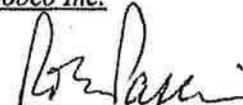
For Bedford Development LLC

By:   
ROBERT PASCUCCI  
MEMBER

For Carnegie Construction Corp.

By:   
ROBERT PASCUCCI  
PRESIDENT

For Jobco Inc.

By:   
ROBERT PASCUCCI  
PRESIDENT

For Bedford Development LLC,  
Carnegie Construction Corp.,  
Robert Pascucci, and Jobco Inc.

ROSENBERG CALICA & BIRNEY LLP

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For Robert Pascucci

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ROBERT PASCUCCI

For Bedford Development LLC

By: \_\_\_\_\_  
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MEMBER

For Carnegie Construction Corp.

By: \_\_\_\_\_  
ROBERT PASCUCCI  
PRESIDENT

For Jobco Inc.

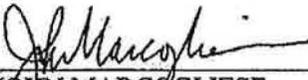
By: \_\_\_\_\_  
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For Bedford Development LLC,  
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ROSENBERG CALICA & BIRNEY LLP

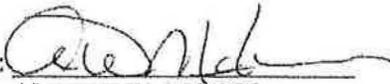
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For the Rule 19 Defendant

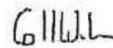
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*For Warshauer Mellusi*  
Warshauer, Architects P.C.

BYRNE & O'NEILL, LLP

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*For Warshauer Mellusi*  
Warshauer, Architects P.C.

By:   
GARY WARSHAUER

So Ord.  
  
3/18/19

**APPENDIX A  
 PUBLIC AND COMMON USE AREAS AT SUTTON MANOR<sup>1</sup>**

**PARKING GARAGE**

<b>ELEMENT</b>	<b>CONDITION</b>	<b>AGREED UPON RETROFIT</b>
Accessible Signage	No accessible parking signage provided	Provide accessible parking signage at both accessible parking space locations at height between 60 inches and 84 inches (two international symbols for accessible parking and one "No Parking Anytime" signage for access aisle).
Accessible Route	Curb ramp slope 8.9 % slope	Remove existing concrete curb ramp and replace with new concrete curb ramp with slope less than 8.33%.
	Landing on top of curb ramp and entry door is only 35 inches in depth	Provide flat landing area at entry door that measures 48 inches minimum in depth.
	Exit signage protrudes into the accessible route at 78 1/4 inches AFF	Provide code compliant low profile exit sign to provide 80 inches head room minimum, or raise existing sign and ceiling tile to provide 80 inches head room minimum.

**EXTERIOR ACCESSIBLE PARKING SPACE**

<b>ELEMENT</b>	<b>CONDITION</b>	<b>AGREED UPON RETROFIT</b>
Slope	Parking spaces and access aisle slope exceed 2% at most locations	Re-grade and resurface existing accessible parking spaces to provide a 2% maximum slope/cross slope.
	Accessible parking signage not provided or at incorrect height	Relocate so that bottom of sign is provided between 60 inches and 84 inches.

<sup>1</sup> The elements noted in this appendix are based on a previous inspection performed by United Spinal Association and are not intended to prohibit the Sutton Manor Board of Managers from considering additional and/or alternative retrofits after conferring with United Spinal Association and the retained contractor, so long as such additional and/or alternative retrofits are deemed necessary by United Spinal Association and the retained contractor pursuant to the Americans with Disabilities Act and the Fair Housing Act.

Storm Grate	Storm water grate is located in the accessible parking space and accessible route with openings greater than 1/2 inch	Replace existing storm water basin grate with one that provides openings that are 1/2 inch in width or less.
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**EXTERIOR ENTRY DOOR**

<b>ELEMENT</b>	<b>CONDITION</b>	<b>AGREED UPON RETROFIT</b>
Entry Door Landing	Slope at entry door landing exceeds the allowable 2% (4.2%)	Remove existing concrete walkway at entry door and replace with landing providing slope/cross slope 2% or less that will also provide compliant clear floor space at automatic door opener.
Door Threshold	Entry door threshold 7/8 inch on exterior side	Remove existing and install new threshold 1/2 inch maximum, beveled at 1:2.

**COMMUNITY ROOM AND INDOOR COMMON AREAS**

<b>ELEMENT</b>	<b>CONDITION</b>	<b>AGREED UPON RETROFIT</b>
Ceiling Mounted Light Fixtures	Ceiling mounted light fixtures protrude into the accessible route at 79 inches AFF	Provide new light fixtures that will protrude less than 4 inches into circulation path or raise or move existing fixtures to correct height.
Kitchenette	40 inches clear is not provided between countertop and refrigerator	Provide counter depth refrigerator or alternate retrofit to provide sufficient clearance between countertop and refrigerator.
	30 inch minimum width work surface has not been provided	Remove existing cabinet and provide finishes and/or provide alternative 30 inch minimum width work surface.
	Sink height is 36 1/2 inches AFF	Lower 30 inch width of sink so that it is 34 inches maximum AFF.
	Microwave highest operable part located at 65 inches	Relocate microwave to top of counter so operable parts are at or below 48 inches AFF.
	Electrical outlets on the back wall behind countertop requires 25 1/2 inch reach	Provide 2 inch, electrical box extension for electrical outlets that will result in 24 inches of maximum reach depth.

Community Room Patio	Patio door exterior threshold 1 1/8 inch elevation change  Patio slab has undergone additional settlement since original inspection with elevation change to 1 3/4 inches, likely will require select base correction.	Replace door with another single panel door that provides 32 inches clear when door panel is open at 90 degrees. Replacement door shall provide a low profile threshold 1/2 inch maximum elevation change. Modify exterior concrete patio to provide 1/2 inch maximum elevation change. Ensure slope/cross slope do not exceed 2%.
Exercise Room	Signage with raised/Braille characters has not been provided.	Provide signage with raised/Braille characters; install so that measurement to the baseline of the highest tactile character is 60 inches AFF; provide touch-up paint as needed.
Restroom off Exercise Room	Braille signage located at 60 3/8 inches AFF	Lower existing signage so that measures to the baseline of the highest tactile character is 60 inches AFF; provide touch-up paint as needed.
	Water closet located at 20 1/2 inches to center line off parallel side wall	Build out water closet side wall 2 1/2 inches or install grab bar to provide 18 inches to the center line of water closet.
	Side wall grab bar 9 1/2 inches from rear wall	Relocate existing grab bar to be 12 inches from rear wall (measured to center of escutcheon plate). Patch and repair fastener holes left behind.
	Rear wall grab bar 9 inches from parallel side wall	Relocate grab bar so it begins 6 inches from side wall (measured to center of escutcheon plate).
	Toilet paper dispenser located 11 inches in front of water closet	Relocate toilet paper dispenser to be 7 to 9 inches in front of water closet bowl. Patch and repair fastener holes left behind.
	Paper towel dispenser with only forward approach located at 49 inches AFF	Relocate paper towel dispenser to locate dispenser operable parts to be 48 inches maximum AFF.
	Lavatory height 34 1/4 inches AFF	See item below to resolve lack of knee and toe clearance.

	Lavatory does not provide knee and toe clearance (removable base cabinet)	Remove existing lavatory and replace with new accessible lavatory, providing removable base cabinet, 34 inches maximum AFF, with knee and toe clearance and pipe insulation. Patch and repair existing finishes from removal.
	Water closet obstructed with add-on control feature which obstructs parallel approach	Ensure add-on control feature was removed properly.
Meeting Room	Meeting table not provided with minimum knee clearance (26 1/2 inches)	Add/attach 3/4 inch blocking to the bottom of table legs to ensure 27 inches clearance.
Mail Boxes	Mail drop operable part located at 64 inches AFF	Provide a mail drop location within reach range of 54 inches high reach and 15 inches low reach for parallel approach.
	Counter/work surface 35 inches AFF	Lower existing counter/work surface to 34 inches AFF maximum, patch and repair wall surface exposed by lowering.
1 <sup>st</sup> Floor Trash Room	Braille signage located at 60 3/4 inches AFF to center	Lower existing signage so that measured to the top of the highest tactile character is 60 inches AFF, provide touch-up paint as needed.
	Disposal chute door handle requires grip and twist action to operate	Replace existing door hardware with new hardware that does not require twisting or grasping.
	Turning space impacted by recycling bins	Replace existing recycle bins with products that do not impact the accessible turning space required, relocate bins, or otherwise ensure there is adequate turning space.
2 <sup>nd</sup> Floor Elevator Lobby Doors	Door opening force greater than allowable 5 pounds (12 pounds)  18 inch door pull side clearance is not provided	Remove one of the two glass doors, or implement and/or maintain retrofit involving magnetic wall clasp that releases upon fire alarm signal.
2 <sup>nd</sup> Floor Trash Room	Braille signage located at 60 1/4 inches AFF to center	Lower existing signage so that measured to the top of the highest tactile character is

		60 inches AFF, provide touch-up paint as needed.
	Disposal chute door handle requires grip and twist action to operate	Replace existing door hardware with new hardware that does not require twisting or grasping.
	Turning space impacted by recycling bins	Replace existing recycle bins with products that do not impact the accessible turning space required, relocate bins, or otherwise ensure there is adequate turning space.
3 <sup>rd</sup> Floor Elevator Lobby Doors	Door opening force greater than allowable 5 pounds (13 pounds)  18 inch door pull side clearance is not provided	Remove one of the two glass doors, or implement and/or maintain retrofit involving magnetic wall clasp that releases upon fire alarm signal.
3 <sup>rd</sup> Floor Trash Room	Braille signage located at 60 1/2 inches AFF to center	Lower existing signage so that measured to the top of the highest tactile character is 60 inches AFF, provide touch-up paint as needed.
	Disposal chute door handle requires grip and twist action to operate	Replace existing door hardware with new hardware that does not require twisting or grasping.
	Turning space impacted by recycling bins	Replace existing recycle bins with products that do no impact the accessible turning space required, or relocate existing bins.
Hallway Protruding Object	Light fixture above photo extends 10 inches from mounting wall, 5 1/4 inches from cane detection at 77 inches	Provide new light fixtures that will protrude less than 4 inches into circulation path.

**UNIT 103**

<b>ELEMENT</b>	<b>CONDITION</b>	<b>AGREED UPON RETROFIT</b>
Entry Door	Threshold 3/4 inches on exterior side	Lower threshold.
	Minimum 18 inches of pull-side clearance has not been provided on pull-side of entry door	Increase clearance.
Second Bathroom	Owners' request for roll-in shower modification during construction denied	Install roll-in shower and grab bars in second bathroom.
Patio Door	Single panel of double leaf patio door provides insufficient clear space (21 inches) when open at 90 degrees	Remove existing double leaf door and replace with new single panel door with side lights that provide 32 inches clear when door panel is open at 90 degrees. Replacement door shall provide a low profile threshold 1/2 inch maximum elevation change.
	Door threshold – 2 inches exterior with no bevel, 2 1/4 inches interior	See item above, threshold allowable 1 1/4 inches exterior and 3/4 inch interior with 1:2 slope minimum.
	Patio floor slope away from door 3.6%	Replace existing concrete slab with new and slope of 2% or less.

**UNIT 209**

<b>ELEMENT</b>	<b>CONDITION</b>	<b>AGREED UPON RETROFIT</b>
Entry Door	Door threshold 3/4 inches at hall side location	Lower threshold.
Balcony Door	Double leaf balcony door single panel provides insufficient clear space (21 inches) when open at 90 degrees	Remove existing double leaf door and replace with new single panel door with side lights that provided 32 inches clear when door panel is open at 90 degrees. Replacement door shall provide a low profile threshold 1/2 inch maximum elevation change.
	Door threshold – 3 inches exterior, 1 3/4 inches interior	See item above, threshold allowable 1 1/4 inches exterior and 3/4 inch interior with 1:2 slope minimum.

Master Bathroom	Shower pan front edge curb too high (3 inches AFF)	Remove existing shower floor pan and replace with new floor pan with 1/2 inch maximum front edge curb/threshold.
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**APPENDIX B**

**RETROFITS POTENTIALLY AVAILABLE FOR UNITS OTHER THAN UNITS 103, 209, AND 307 (THE "GENERAL UNITS")<sup>2</sup>**

<b>ELEMENT</b>	<b>CONDITION</b>	<b>AGREED UPON RETROFIT</b>
Entry Door	Door threshold too high (3/4 inches at hall side location)	Lower threshold to 1/2 inch maximum.
	Minimum 18 inches of pull-side clearance has not been provided on pull-side of entry door	Re-hang door to swing into main hallway.
Patio/Balcony Door and Threshold	Double leaf balcony / patio door single panel provides insufficient clear space (21 inches) when open at 90 degrees	Remove existing double leaf door and replace with new single panel door with side lights that provided 32 inches clear when door panel is open at 90 degrees. Replacement door shall provide a low profile threshold 1/2 inch maximum elevation change.
	Door threshold too high (3 inches exterior, 1 3/4 inches interior)	See item above, threshold allowable 1 1/4 inches outside and 3/4 inch interior with 1:2 slope minimum.
Master Bathroom	Shower pan front edge curb too high (3 inches AFF)	Remove existing shower floor pan and replace with new floor pan with 1/2 inch maximum front edge curb/threshold.
	Water closet (toilet) located more than 18 inches to center line off parallel side wall	Relocate water closet or build out water closet side wall or install grab bar to provide a maximum of 18 inches to the center line of water closet.
	Lavatory cabinet is not removable, preventing forward approach in wheelchair	Remove base cabinet and replace with new removable base cabinet, finish floor, wall surface and ensure sink highest surface is 34 inches AFF.

<sup>2</sup> If, upon inspection, a General Unit is found to have a condition or conditions listed in this chart, the owner of that General Unit will be offered a retrofit to correct the condition to the extent sufficient funds are available in the General Unit Retrofit Fund.

Second Bathroom	Water closet (toilet) located more than 18 inches to center line off parallel side wall	Relocate water closet or build out water closet side wall or install handrail to provide a maximum 18 inches to the center line of water closet.
Kitchen	40 inches of clear width is not provided (38 1/2 inches at refrigerator)	Provide counter depth refrigerator or other appropriate and feasible retrofit.

APPENDIX C

**NOTICE OF (1) RETROFITS TO PUBLIC AND COMMON USE AREAS OF SUTTON MANOR AND (2) AVAILABILITY OF INSPECTIONS OF INDIVIDUAL UNITS TO DETERMINE WHICH RETROFITS ARE AVAILABLE FOR EACH UNIT**

To Our Unit Owners:

As you know, the United States has brought a lawsuit against the builders and architect of Sutton Manor alleging that they failed to include certain accessible features for persons with disabilities in the design and construction of Sutton Manor. We have reached a settlement with all parties to the lawsuit, which will enable certain retrofits to be done throughout Sutton Manor.

Federal law requires that the public and common use areas at Sutton Manor contain accessibility features for persons with disabilities. Within the next nine (9) months, we will be undertaking a program of retrofits to the public and common use areas to make them more accessible to persons with disabilities. A list of retrofits we will be undertaking to the public and common use areas is available upon request from Patricia Dignan from McGrath Management LLC. We do not anticipate that unit owners or tenants of the units will have to be relocated because of the retrofits we are undertaking.

Federal law also requires that the individual units at Sutton Manor contain accessibility features for persons with disabilities. If you want to have your unit inspected by an architect from United Spinal Association to determine whether your unit contains features that are not accessible for persons with disabilities and, if so, what retrofits are available for your unit, please check the box below and **return this form within thirty (30) days of the date of this notice** to our counsel at Latham & Watkins LLP at the address below, using the return envelope provided. **Any unit owners who do not return this form or return this form after [date] will be deemed to have declined an inspection and any retrofits potentially available for their units under the settlement.**

Should you have questions regarding this letter, please contact Latham & Watkins LLP at (212) 906-4530 or the United States Attorney's Office, Southern District of New York, at (212) 637-2674.

Sincerely,  
The Special Litigation Committee  
of the Sutton Manor Board of Managers

**Yes, I (we) want my (our) unit inspected by United Spinal Association to determine whether my (our) unit contains features that are not accessible for persons with disabilities and, if so, what retrofits are available for my (our) unit.**

\_\_\_\_\_  
PRINTED NAME / UNIT #

---

SIGNATURE

**RETURN TO BELOW ADDRESS WITHIN 30 DAYS OF THE DATE OF THIS  
NOTICE:**

**Iris Xie  
Latham & Watkins LLP  
885 Third Avenue  
New York, NY 10022**

**APPENDIX D**

**NOTICE TO OWNERS OF INSPECTED UNITS OF THE RETROFITS  
AVAILABLE FOR EACH INSPECTED UNIT**

To Owner(s) of Unit:

As you know, United Spinal Association recently inspected your unit as part of a settlement in the lawsuit brought by the United States against the builders and architect of Sutton Manor alleging that they failed to include certain accessible features for persons with disabilities in the design and construction of Sutton Manor. Following the inspection of your unit, United Spinal Association has determined that the following conditions are not compliant and would therefore be eligible for retrofits under the settlement agreement:

<b>CONDITION</b>	<b>RETROFIT</b>	<b>WANT RETROFIT? (Y/N)</b>

For each condition listed above, place a “Y” in the third column of the above chart if you want to have the condition corrected by implementation of the retrofit and an “N” in the third column of the above chart if you do not want to have the condition corrected by implementation of the retrofit. Please **return this form within thirty (30) days of the date of this notice** to our counsel at Latham & Watkins LLP at the address listed below, using the return envelope provided. **Any unit owners who do not return the form or return the form after [date] will be deemed to have declined the request for retrofits.**

We are hopeful that the funds obtained through the settlement will be sufficient to provide each unit owner with all requested retrofits. Please note, however, that the implementation of the retrofits are subject to availability of funds provided for the individual units under the settlement agreement. You will receive a follow up notice in response to the above form confirming the exact retrofits we can guarantee in your unit.

Should you have questions regarding this letter, please contact Latham & Watkins LLP at (212) 906-4530 or the United States Attorney’s Office, Southern District of New York, at (212) 637-2674.

Sincerely,  
The Special Litigation Committee

of the Sutton Manor Board of Managers

\_\_\_\_\_  
PRINTED NAME / UNIT #

\_\_\_\_\_  
SIGNATURE

**RETURN TO BELOW ADDRESS WITHIN 30 DAYS OF THE DATE OF THIS NOTICE.**

**Iris Xie  
Latham & Watkins LLP  
885 Third Avenue  
New York, NY 10022**

**APPENDIX E**

**NOTICE TO OWNERS OF INSPECTED UNITS CONCERNING IMPLEMENTATION  
OF RETROFITS SELECTED FOR WHICH FUNDING IS AVAILABLE**

To Owner(s) of Unit \_\_\_:

The following retrofits will be performed in your unit within twelve (12) months of the date of this notice, subject to any extension determined to be necessary by the Board of Managers:

- 
- 
- 

Scheduling of the retrofits will take into account your preference and convenience or the convenience of your tenants, if applicable.

Should you have questions regarding this letter, please contact Latham & Watkins LLP at (212) 906-4530 or the United States Attorney's Office, Southern District of New York, at (212) 637-2674.

Sincerely,  
The Special Litigation Committee  
of the Sutton Manor Board of Managers

**APPENDIX F**

**INTERVENOR-PLAINTIFFS RELEASE OF CLAIMS**

\_\_\_\_\_, as RELEASOR ("RELEASOR"), in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, hereby releases, discharges and acquits forever BEDFORD DEVELOPMENT LLC, CARNEGIE CONSTRUCTION CORP., ROBERT PASCUCCI, JOBCO, INC., and WARSHAUER MELLUSI WARSHAUER ARCHITECTS, P.C., together with each of their present, past and future heirs, executors, administrators, successors, transferees, assigns, employees, agents, principals, officers, directors, affiliates, parents, subsidiaries, insurers, members and shareholders (collectively "RELEASEES") from all known and unknown actions, causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, extents, executions, claims, and demands whatsoever, in law, admiralty or equity, which against the RELEASEES, the RELEASOR, RELEASOR'S heirs, executors, administrators, successors, transferees and assigns ever had, now have or hereafter can, shall or may have, for, upon, or by reason of any matter, cause or thing whatsoever from the beginning of the world to the day of the date of this RELEASE, that are related to, arising out of, or connected to any claims, counterclaims, or defenses (whether asserted or not) in the lawsuits entitled United States of America v. Bedford Development LLC, Carnegie Construction Corp., Robert Pascucci, Jobco Inc., and Warshauer Mellusi Warshauer Architects, P.C. and Sutton Manor Board of Managers, United States District Court Southern District of New York, 7:17-cv-01533-KMK, United States of America and Ina Grober, Linda Tracey, Michael Tracey, Gloria Koller, and Mark Koller v. Bedford Development LLC, Carnegie Construction Corp., Robert Pascucci, Jobco Inc. and Warshauer Mellusi Warshauer Architects, P.C., United States District Court Southern District of New York, 7:17-cv-01533-KMK, the Fair Housing Act 42 U.S.C. §§3601-3619, and the Westchester County Fair Housing Law Chapter 700 Articles I and II.

The words "RELEASOR" and "RELEASEE" include all releasors and all releasees under this RELEASE.

This RELEASE may not be changed orally.

*IN WITNESS WHEREOF*, the RELEASOR has hereunto set RELEASOR'S hand and seal on the \_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
[NAME OF INTERVENOR-PLAINTIFF]

**STATE OF NEW YORK COUNTY OF WESTCHESTER**

On the \_\_\_ day of \_\_\_\_\_ in the year 2019 before me, the undersigned, a Notary Public in and for said State, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is

subscribed to the within instrument and acknowledged to me that he executed the same in his capacity and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

**BOARD OF MANAGERS RELEASE OF CLAIMS**

SUTTON MANOR BOARD OF MANAGERS, as the governing body of Sutton Manor Condominium and responsible for its affairs, as RELEASOR ("RELEASOR"), in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, hereby releases, discharges and acquits forever BEDFORD DEVELOPMENT LLC, CARNEGIE CONSTRUCTION CORP., ROBERT PASCUCCI, JOBCO, INC., and WARSHAUER MELLUSI WARSHAUER ARCHITECTS, P.C., together with each of their present, past and future heirs, executors, administrators, successors, transferees, assigns, employees, agents, principals, officers, directors, affiliates, parents, subsidiaries, insurers, members and shareholders (collectively "RELEASEES") from all known and unknown actions, causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, extents, executions, claims, and demands whatsoever, in law, admiralty or equity, which against the RELEASEES, the RELEASOR, RELEASOR'S heirs, executors, administrators, successors, transferees and assigns ever had, now have or hereafter can, shall or may have, for, upon, or by reason of any matter, cause or thing whatsoever from the beginning of the world to the day of the date of this RELEASE, that are related to, arising out of, or connected to any claims, counterclaims, or defenses (whether asserted or not) in the lawsuits entitled United States of America v. Bedford Development LLC, Carnegie Construction Corp., Robert Pascucci, Jobco Inc., and Warshauer Mellusi Warshauer Architects, P.C. and Sutton Manor Board of Managers, United States District Court Southern District of New York, 7:17-cv-01533-KMK, United States of America and Ina Grober, Linda Tracey, Michael Tracey, Gloria Koller, and Mark Koller v. Bedford Development LLC, Carnegie Construction Corp., Robert Pascucci, Jobco Inc. and Warshauer Mellusi Warshauer Architects, P.C., United States District Court Southern District of New York, 7:17-cv-01533-KMK, the Fair Housing Act 42 U.S.C. §§3601-3619, and the Westchester County Fair Housing Law Chapter 700 Articles I and II.

The words "RELEASOR" and "RELEASEE" include all releasors and all releasees under this RELEASE.

This RELEASE may not be changed orally.

*IN WITNESS WHEREOF*, the RELEASOR has hereunto set RELEASOR'S hand and seal on the \_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_, as \_\_\_\_\_  
on behalf of the Sutton Manor Board of Managers

**STATE OF NEW YORK COUNTY OF WESTCHESTER**

On the \_\_\_ day of \_\_\_\_\_ in the year 2019 before me, the undersigned, a Notary Public in and for said State, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is

subscribed to the within instrument and acknowledged to me that he executed the same in his capacity and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

**APPENDIX G**

**DESIGN AND CONSTRUCTION DEFENDANTS RELEASE OF CLAIMS**

In consideration of the terms of the Settlement Agreement in *United States v. Bedford Development LLC et al*, No. 17 Civ. 1533 (KMK) (S.D.N.Y.) (the "Action"), \_\_\_\_\_, hereby releases (1) each named Intervening Plaintiff and Rule 19 Defendant in the Action from any and all liability for any claims, legal or equitable, it/he may have against any of them arising out of the issues alleged in the Amended Complaint and Complaint in Intervention, including any and all claims which were or could have been brought as part of the Action, and (2) each named [Construction Defendant / Design Defendant] from any and all liability for any claims or cross-claims, legal or equitable, it/he may have against any of them arising out of the issues alleged in the Amended Complaint and Complaint in Intervention, including any and all claims or cross-claims that were or could have been brought as part of the Action.

On behalf of \_\_\_\_\_, I fully acknowledge and agree that this release of the above-named parties shall be binding on the heirs, representative, executors, successors, administrators, and assigns of \_\_\_\_\_.

I hereby acknowledge that I have read and understand this release and have signed it voluntarily.

\_\_\_\_\_  
DEFENDANT NAME

\_\_\_\_\_  
REPRESENTATIVE NAME

\_\_\_\_\_  
REPRESENTATIVE SIGNATURE

\_\_\_\_\_  
DATE

## APPENDIX H

### NOTICE TO CURRENT AND FORMER SUTTON MANOR OWNERS AND RESIDENTS

On March \_\_, 2019, the United States entered a settlement agreement resolving a lawsuit brought by the United States Department of Justice against an architect and certain builders and developers alleging that they failed to include certain accessible features for persons with disabilities required by the Fair Housing Act, 42 U.S.C. § 3604(f)(3)(c), in the design and construction of the Sutton Manor condominium located at 234 North Bedford Road, Mount Kisco, New York.

Under this settlement agreement, an aggrieved persons fund consisting of a total amount of \$30,000.00 was established to compensate persons who may have suffered as result of the alleged lack of accessible features. A person may be entitled to receive monetary relief if, in relation to Sutton Manor, he or she:

- WAS DISCOURAGED FROM LIVING AT THAT PROPERTY BECAUSE OF THE LACK OF ACCESSIBLE FEATURES;
- HAS BEEN HURT IN ANY WAY BY THE LACK OF ACCESSIBLE FEATURES AT THAT PROPERTY;
- PAID TO HAVE AN APARTMENT AT THAT PROPERTY MADE MORE ACCESSIBLE TO PERSONS WITH DISABILITIES; OR
- WAS OTHERWISE DISCRIMINATED AGAINST ON THE BASIS OF DISABILITY AT THAT PROPERTY.

If you wish to make a claim to entitlement to a share of the \$30,000.00 in the aggrieved persons fund arising from discrimination on the basis of disability, or if you have any information about persons who may be entitled to a share, please contact the United States Attorney's Office, Southern District of New York at 212-637-2800. You may also fax us at 212-637-2702 or write to:

United States Attorney's Office, Southern District of New York  
Attn: Civil Rights Unit  
86 Chambers Street  
New York, New York 10007

NOTE: You must call or write no later than [180 days after the Agreement is fully executed and the Settlement Order is entered by the Court.]

**APPENDIX I**

**AGGRIEVED PERSONS RELEASE OF CLAIMS**

In consideration of the payment of the sum of \_\_\_\_\_ dollars (\$ \_\_\_\_\_), pursuant to the Settlement Agreement in *United States v. Bedford Development LLC et al*, No. 17 Civ. 1533 (KMK) (S.D.N.Y.) (the "Action"), I, \_\_\_\_\_, hereby release each named Defendant and Rule 19 Defendant in the Action from any and all liability for any claims, legal or equitable, I may have against any of them arising out of the issues alleged in the Amended Complaint and Complaint in Intervention.

I fully acknowledge and agree that this release of the above-named parties shall be binding on my heirs, representative, executors, successors, administrators, and assigns.

I hereby acknowledge that I have read and understand this release and have signed it voluntarily.

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
PRINTED NAME

\_\_\_\_\_  
DATE