

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

-against-

THE DURST ORGANIZATION, INC.; THE  
HELENA ASSOCIATES, LLC; and  
FXFOWLE ARCHITECTS, P.C.,

Defendants.

ECF CASE

**CONSENT DECREE**

14 Civ. 2698 (RA)

USDC-SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: NOV 13 2015

**INTRODUCTION**

**A. Background**

This Consent Decree is entered into between the United States of America (the “United States”) and Defendants The Helena Associates, LLC and The Durst Organization Inc. (collectively, the “Settling Defendants”).

WHEREAS, 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. Specifically, the United States’ complaint in this Action, filed on April 16, 2014, alleges that the Settling Defendants have engaged in a pattern or 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 the Helena Apartments, a residential apartment complex in Manhattan (“the Helena”), with the features of accessible and adaptive design and construction required by the FHA, 42 U.S.C. § 3604(f)(3)(C);

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

**B. The Parties**

WHEREAS, The Helena Associates LLC, a New York limited liability company, and The Durst Organization Inc., a New York corporation, are the owners and/or builders and developers of the Helena, and, in those capacities, designed and constructed the Helena;

WHEREAS, FXFOWLE Architects, P.C., a New York professional corporation (the "Architect Defendant"), drew the architectural plans for the Helena and, in that capacity, designed and constructed the Helena;

**C. 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 13, 1991, are "covered multifamily dwellings" ("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)(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 "FHA's Accessible Design Requirements");

**D. Conditions at the Helena**

WHEREAS, the Helena is a residential apartment building located at 601 West 57th Street, New York, New York. The Helena consists of a tower with elevator access and contains five hundred and ninety-five (595) dwelling units, as well as public and common use areas, including a leasing office, laundry facilities, a roof terrace, a children's play room, a fitness center, a tenants' lounge, and storage areas for tenants;

WHEREAS, the United States has inspected the Helena and specifically identified, among other things, the following conditions at the Helena that the United States alleges fail to meet the FHA's Accessible Design Requirements:

- The sign for the leasing office lacks raised letter Braille for persons with visual impairments;
- The reception counter in the leasing office is too high to accommodate persons who use wheelchairs;
- Locations of the grab bars, toilet, and sink in the unisex bathroom in the main lobby interfere with accessibility for persons who use wheelchairs;
- Excessively high thresholds at entrances to individual units and at entrances to individual unit kitchens, bathrooms and terraces interfere with accessibility routes for persons who use wheelchairs;
- Insufficient clear opening width of bedroom, bathroom, terrace, and closet doors in individual units interferes with access for persons who use wheelchairs;
- Kitchens in individual units lack sufficient width to accommodate persons who use wheelchairs;
- Kitchen ranges, sinks, and refrigerators in individual units lack sufficient clearance for persons who use wheelchairs;

- Insufficient clear floor space within bathrooms in individual units interferes with maneuvering by persons who use wheelchairs;
- Toilets in bathrooms in individual units are too close to adjacent side wall to accommodate persons who use wheelchairs;
- Locations of thermostats, light switches, radiator controls, and kitchen and bathroom electrical outlets in individual units are inaccessible to persons who use wheelchairs;
- Excessively high thresholds at entrances to trash rooms and laundry rooms interfere with accessibility for persons who use wheelchairs;
- The force required to operate trash chutes interferes with accessibility for persons with certain disabilities;
- Locations of dryers in the laundry rooms interfere with accessibility by persons who use wheelchairs;
- Excessively high threshold at the door to the children's play room and inoperable automatic opening device interfere with accessibility for persons with certain disabilities;
- Excessive running slope of ramp leading to the roof terrace and excessively high threshold at the roof terrace door interfere with accessibility for persons who use wheelchairs;
- Excessively high threshold at one entrance to the fitness center and lack of any accessible route at the other entrance interfere with accessibility for persons who use wheelchairs;
- Excessively high threshold at the door to the tenants' storage area interferes with accessibility for persons who use wheelchairs; and
- The door to the television room in the tenants' lounge is too narrow for persons who use wheelchairs.

**E. The New Front Street Buildings**

WHEREAS, in or about June 2003, Durst Front Street LLC, an affiliate of the Settling Defendants, agreed to assume a 40% membership interest in Yarrow LLC, an entity that

developed the Historic Front Street properties in Lower Manhattan, including three new rental buildings known as and located at 213 - 217 Front Street, 214-216 Front Street and 24-26 Peck Slip containing approximately 40 rental units (the "New Front Street Buildings");

WHEREAS, in February 2008, Durst Front Street LLC acquired a majority interest in Yarrow LLC;

WHEREAS, the Settling Defendants have provided documents to the United States in support of their contention that, while Durst Front Street LLC provided funding for the development of the New Front Street Buildings, neither Durst Front Street LLC nor the Settling Defendants were involved with the design or construction of those buildings because that was the responsibility of the other members of Yarrow LLC;

**F. Consent of the Parties to Entry of this Decree**

WHEREAS, 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 as to the Settling Defendants without further proceedings and without an evidentiary hearing or a trial;

WHEREAS, this Consent Decree pertains solely to The Helena, the New Front Street Buildings, and the additional property as identified in Appendix E and does not make any representations regarding, or release the Settling Defendants from any potential liability related to, any other Covered Multifamily Dwellings, including but not limited to 1214 Fifth Avenue, that any of the Settling Defendants may have designed or constructed other than The Helena and the additional property as identified in Appendix E;

WHEREAS, the parties' entry into this Consent Decree is not intended to and does not limit the Settling Defendants, individually or collectively, from instituting a separate action

seeking contribution, or damages in the nature of indemnification or breach of contract or for any reason from any individual or entity involved in the design and construction of any property that is subject to this Consent Decree, including but not limited to the Architect Defendant;

WHEREAS, the Settling Defendants agree to make modifications to the Helena, the New Front Street Buildings, or the Additional Property as set forth herein; and

WHEREAS, the parties agree to the entry of this Consent Decree.

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

### **I. GENERAL INJUNCTION**

1. The Settling 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.

### **II. CORRECTIVE ACTIONS / RETROFITS AT THE HELENA**

2. The United States alleges that the Helena was not designed or constructed in accordance with the FHA or the Fair Housing Accessibility Guidelines, Design Guidelines for Accessible/Adaptable Dwellings, 56 Fed. Reg. 9472 (Mar. 6, 1991) (the "Guidelines"). Without admitting liability, the Settling Defendants agree to make the modifications as described in Appendices A and B annexed to this Consent Decree.

#### **A. Modifications to the Public and Common Use Areas**

3. Settling Defendants acknowledge that the public and common use areas of the Helena do not meet all of the requirements of any one of the ten safe harbors recognized by the U.S. Department of Housing and Urban Development ("HUD") for compliance with the FHA. To the extent that they have not already done so, the Settling Defendants agree to modify the public and common use areas of the Helena by taking the actions described herein.

4. As soon as reasonably possible, but no later than six (6) months from the entry of this Consent Decree, the Settling Defendants shall finish the retrofits listed in Appendix A, to the extent that they have not already done so. The Settling Defendants shall minimize inconvenience to residents in making such retrofits.

5. Within ten (10) days of the entry of this Consent Decree, the Settling Defendants shall provide written notices to all residents at the Helena stating that the retrofits required by this Consent Decree will be performed to the public and common use areas of the Helena. Such notice shall conform to Appendix C.

6. The Settling Defendants shall certify to the United States in writing that the notices required by paragraph "5" have been distributed and shall specify the manner in which they were distributed, within ten (10) days after such distribution. Such certification shall include the names and addresses of the persons to whom the notices were distributed.

**B. Modifications to Dwelling Unit Interiors**

7. The Settling Defendants acknowledge that the dwelling unit interiors of the Helena do not meet all of the requirements of any one of the ten safe harbors recognized by HUD for compliance with the FHA. The Settling Defendants agree to modify the dwelling unit interiors at the Helena by taking the actions described below.

8. As soon as reasonably possible, but no later than six (6) months from the entry of this Consent Decree (unless otherwise specified in Appendix B), the Settling Defendants shall finish the retrofits listed in Appendix B, to the extent that such retrofits have not already been finished. The Settling Defendants shall minimize inconvenience to residents in making such retrofits.

9. Within ten (10) days from the date of the entry of this Consent Decree, the Settling Defendants shall inform each resident that: (a) the United States has alleged that certain

features of the resident's unit do not meet the FHA's Accessible Design Requirements and that, to settle the Action, the Settling Defendants have agreed to retrofit certain features of the Helena to make them more accessible; (b) the retrofits set forth in Appendix B will be provided within forty-five (45) days of any request by a tenant or prospective tenant but will, in any event, take place within six (6) months; and (c) the scheduling of the retrofits will take into account the preferences and convenience of the resident or future resident and that relocation costs, if any, will be provided in advance. The notice shall be substantially in the form of Appendix D.

10. The Settling Defendants shall certify to the United States in writing that the notices described in paragraph "9" have been distributed and shall specify the manner in which they were distributed, within ten (10) days after such distribution. Such certification shall include the names and addresses of the persons to whom the notices were distributed.

### **III. PERPETUAL LEASE PROVISION**

11. The Settling Defendants shall amend all existing leases at the Helena to include, and shall append to all future leases, an "Accessibility Modification Rider" in the form attached as Appendix J. The Accessibility Modification Rider shall reflect the fact that the Settling Defendants will provide any retrofit listed in Appendix B upon the request of any current or future tenant of the Helena, in perpetuity. The Accessibility Modification Rider shall be provided to all prospective tenants upon touring or viewing a dwelling unit at the Helena. Furthermore, the United States may, from time to time, provide the Accessibility Modification Rider to state and local agencies or public interest organizations serving the needs of people with disabilities. Nothing in this paragraph or the Accessibility Modification Rider shall relieve the Settling Defendants of any obligation to take the corrective actions and/or perform the retrofits described in Part II, Appendix A, and Appendix B of this Consent Decree.



#### IV. ADDITIONAL PROPERTY

12. In addition to the Helena, the Settling Defendants have designed and constructed for occupancy after March 13, 1991, a multifamily housing complex identified in Appendix E. That property shall be referred to as the "Additional Property."

13. Within thirty (30) days from the entry of this Consent Decree, the Settling Defendants shall retain one or more licensed design professionals with expertise regarding the FHA and the FHA's Accessible Design Requirements ("Surveyor(s)"), approved by the United States, to survey the Additional Property to determine what actions, if any, must be taken to bring that property into compliance with the accessibility requirements of the FHA's Accessible Design Requirements.

14. The Surveyor(s) shall physically inspect all common areas, public accommodations, at least one apartment of each floor plan type (including but not limited to a unit of each floor plan type specifically modified for use by persons with disabilities), and every unique feature covered by the FHA (*e.g.*, each unique bathroom layout) within the Additional Property, in accordance with survey instructions to be developed by the Settling Defendants and approved by the United States, and shall also review all applicable plans.

15. For purposes of conducting surveys and reporting survey results as required by Section IV of this Consent Decree, the Surveyor(s) shall measure and report compliance with the FHA by reference to one of the following standards (each a "Standard"), where such a single Standard has been used in its entirety (*i.e.*, where every design feature within the Additional Property complies with all of the provisions in the particular selected Standard that address the FHA requirements): (a) the Guidelines; (b) a standard designated as an FHA safe harbor by the Department of Housing and Urban Development; or (c) a recognized, comparable, objective

standard of accessibility that has been found by this district court or the Second Circuit to incorporate the requirements of the FHA.

16. The Settling Defendants shall provide the Surveyor(s) with the best available information regarding the size and location of grab bar reinforcements. Such information must include a physical inspection of more than one dwelling unit bathroom within the Additional Property to ascertain grab bar reinforcement length.

17. Within sixty (60) days of the entry of this Consent Decree, the Settling Defendants shall provide the United States with the date of the survey for the Additional Property, along with a detailed description of the scope and methodology of the survey, including how the Surveyor(s) will identify and survey representative unit types to ensure that all potential FHA violations are identified in accordance with this Consent Decree, and with survey instructions developed by the Settling Defendants and approved by the United States. No survey may be commenced absent the approval of the United States as to the schedule, scope, and methodology of the survey. The survey must include photographic documentation of any feature that does not comply with the requirements of the FHA. With respect to each feature covered by the FHA that was not constructed in compliance with the FHA, the survey must indicate whether the feature was designed in compliance with the FHA according to available plans.

18. The Settling Defendants shall complete the survey of the Additional Property set forth in Appendix E within six (6) months of entry of this Consent Decree. The United States shall have the right to accompany the Surveyor(s) on his or her survey of the property, and the Surveyor(s) shall provide the United States with reasonable notice of the survey, at least thirty (30) days in advance of the survey. For the Additional Property, within thirty (30) days following the completion of both the plan review and the physical survey of the Additional Property, the Surveyor(s) shall provide to the parties a detailed written report setting out the

scope and methodology of each survey and all of the information set forth in paragraph "17" above, including details and photographic documentation regarding any features that do not comply with the FHA, and, for each feature covered by the FHA that was not constructed in compliance with the FHA, details regarding whether the feature was designed in compliance with the FHA according to available plans.

19. Within thirty (30) days of receipt of each report of the Surveyor(s), with respect to the Additional Property, the Settling Defendants shall submit to the United States a proposal for performing retrofits for the conditions identified by the Surveyor(s). To the extent that a condition identified in Appendix B to this Consent Decree is also identified at the Additional Property, the Settling Defendants shall perform the retrofit for that condition as set forth in Appendix B. The United States and the Settling Defendants anticipate agreeing to in-unit retrofits to be performed by the Settling Defendants at the Additional Property that will be generally comparable in scope to the in-unit retrofits set forth in Appendix B, subject to the extent and frequency of the deviations, if any, of the conditions identified by the Surveyor(s).

20. Within sixty (60) days of receipt of the retrofit proposal for the Additional Property, the United States shall notify the Settling Defendants in writing of any objections to the proposal. If there are no written objections, the Settling Defendants shall proceed with the modifications they specified. If the United States provides objections, the parties shall endeavor to expeditiously and in good faith resolve any objections, after which the Settling Defendants shall, within fifteen (15) days, submit a revised retrofit proposal, to which the United States shall have fifteen (15) days to provide written objections; if there are no objections, the Settling Defendants shall proceed with the modifications they specified in the revised retrofit proposal. If, after expeditious and good faith negotiations, the parties are unable to resolve any differences

concerning appropriate modifications, either party may raise the matter(s) to the Court for resolution.

21. The Settling Defendants shall, to the extent that they have not already done so, finish the retrofits to common or public use areas within six (6) months of the United States' approval of a retrofit proposal. The Settling Defendants shall minimize inconvenience to residents in making such retrofits.

22. Unless otherwise agreed to by the United States and the Settling Defendants, the Settling Defendants shall perform all retrofits to individual dwelling units no later than (a) six (6) months after the United States' approval of a retrofit proposal, or (b) ten (10) days from the request of any resident or future resident of the unit, following the United States' approval of a retrofit proposal. The Settling Defendants shall minimize inconvenience to residents in making such retrofits.

23. Within thirty (30) days of the United States' approval of a retrofit proposal for the Additional Property, the Settling Defendants shall inform each resident or prospective resident who resides, or who seeks to reside, in an individual dwelling unit that is subject to being retrofitted in any manner set forth in the applicable retrofit proposal, that (a) to settle a lawsuit, the Settling Defendants agreed to retrofit certain features of the Covered Multifamily Dwellings to make them more accessible; (b) the features of accessible and adaptive design can be retrofitted in the unit upon request of the resident or prospective resident; (c) the retrofits offered will be at no cost to the unit resident or prospective resident; and (d) the scheduling of the retrofits will take into account the preferences and convenience of the resident or prospective resident and that relocation costs, if any, will be provided in advance. The notice(s) shall be substantially in the form of Appendix D, modified as appropriate to reflect the property at issue and the applicable retrofits. For purposes of this Consent Decree, "prospective resident" shall

mean any individual who has taken a tour of a unit and/or applied to lease a unit, but has not yet signed a lease.

24. The Settling Defendants shall certify to the United States in writing that the notices described in paragraph "23" have been distributed and shall specify the manner in which they were distributed as part of their annual reporting requirement. Such certification shall include the names and addresses of the persons to whom the notices were distributed.

25. The Settling Defendants shall pay all costs associated with the surveys and modifications/retrofits to the Additional Property, without prejudice to their ability to seek contribution or indemnification from other sources for such modifications/retrofits.

#### **V. NEW FRONT STREET BUILDINGS**

26. Within sixty (60) days from the entry of this Consent Decree, the Settling Defendants shall provide the United States with the date of the survey for the New Front Street Buildings, along with a detailed description of the scope and methodology of the survey, including how the Surveyor(s) will identify and survey representative unit types to ensure that all potential FHA violations are identified in accordance with this Consent Decree. The survey of the New Front Street Buildings shall be completed within six (6) months of the effective date of this Consent Decree and must include photographic documentation of any feature that does not comply with the requirements of the FHA.

27. Within sixty (60) days following the completion of the physical survey of the New Front Street Buildings, the Surveyor(s) shall provide to the parties a detailed written report setting out the scope and methodology of each survey and all of the information set forth in paragraph "17" above, including details and photographic documentation regarding any features that do not comply with the FHA.

28. The report of the Surveyor(s) for the New Front Street Buildings also shall state, as to each feature at that is not in compliance with the FHA, whether such non-compliance was caused or exacerbated by any structural modification or repair made after September 2007. For all features at the New Front Street Buildings that are (i) not in compliance with the FHA and (ii) such non-compliant conditions were caused or exacerbated by structural modifications or repairs made after February 2008, the Settling Defendants shall propose and make retrofits in accordance with the procedures for making retrofits to the Additional Property in paragraphs "19" through "25" above.

29. The Settling Defendants further agree that, in the event that the United States obtains a judgment, a court-ordered settlement (including a consent decree), or a voluntary compliance agreement requiring retrofits to be made at the New Front Street Buildings to address inaccessible conditions, the Settling Defendants will make such retrofits at the New Front Street Buildings in accordance with the judgment, court-ordered settlement, or voluntary compliance agreement, so long as another party will pay for the reasonable costs of such retrofits.

#### **VI. PER DIEM FOR DISPLACEMENT**

30. In the event that a resident of an unit within the Helena, the New Front Street Buildings, or the Additional Property that is scheduled to undergo a modification is dislocated from his or her unit for more than a twelve (12) hour period, the Settling Defendants shall pay such resident, pro rata, the applicable federal government per diem rate for food and lodging for the local area (as available at [www.gsa.gov](http://www.gsa.gov) – click on "per diem rates" under travel) for each day or half-day of undue inconvenience or hardship. Such payment shall be made prior to the commencement of any retrofit work on the resident's unit, so that the resident can use the money to obtain alternative living accommodations while dislocated.

## **VII. NO ADVERSE ACTION**

31. Present and/or future residents of the Additional Property may not be charged any additional rent, deposit, fee, or other consideration for the units in which retrofits are or may be implemented because of completed, contemplated, or possible retrofits. The Settling Defendants shall take no adverse action against any present and/or future resident because such person requests to have his or her apartment, or prospective apartment, modified in accordance with this Consent Decree.

## **VIII. NEUTRAL INSPECTOR**

32. The Settling Defendants shall enter into a contract with a neutral inspector(s) approved by the United States ("Inspector(s)") to conduct on-site inspections of all retrofits performed under this Consent Decree to determine whether modifications have been made in compliance with the specifications in Appendices A and B at the Helena, and with the specifications in the approved retrofit proposals for the Additional Property and the New Front Street Buildings. The Inspector(s) shall have expertise in the design and construction requirements of the FHA.

33. The Inspector(s) may, upon request of the Settling Defendants, review and comment upon the sufficiency of all proposed repairs in writing in advance of any repair by such Settling Defendant, but such review and comment shall be completed no later than fourteen (14) days after the request.

34. An initial inspection of the Helena shall take place within thirty (30) days of the completion of all of the retrofits set forth in Appendices A and B, or as soon thereafter as practicable. An inspection of each Additional Property shall take place within thirty (30) days of the completion of the retrofits set forth in the applicable approved retrofit proposal.

35. For each inspection, the Settling Defendants for the Helena shall give the United States at least three (3) weeks prior notice of the inspection and shall give the United States an opportunity to have its representative present for the inspection.<sup>1</sup>

36. The Inspector(s) shall set out in writing the results of his or her inspection, including any deficits, and shall send that report to the Settling Defendants and to the United States. The report shall state whether the retrofits required by the applicable Appendix or approved retrofit proposal have been completed, and shall list any required retrofits that were not completed.

37. If the inspection indicates that not all of the required retrofits have been made as specified in the applicable Appendices, or retrofit proposals, the Settling Defendants shall correct any deficiencies within sixty (60) days and shall pay for another inspection by the same Inspector(s) to certify that the deficiencies have been corrected. This process shall continue until the Inspector(s) certifies that all of the necessary modifications have been made. The Settling Defendants shall pay all of the Inspector(s)'s reasonable costs associated with these inspections, and such payments shall be made without regard to the Inspector(s)'s findings. Upon reasonable notice, representatives of the United States shall be permitted to inspect the modifications and/or the third-party inspection reports provided for in this Consent Decree, to ensure compliance.

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

38. The sale or transfer of ownership, in whole or in part, of any Settling Defendant's interest(s) in the Helena, the Additional Property, or the New Front Street Buildings shall not

---

<sup>1</sup> For purposes of this Consent Decree, notices provided to the United States shall be addressed to Chief, Civil Rights Unit, Office of the United States Attorney for the Southern District of New York, 86 Chambers Street, Third Floor, New York, New York 10007. Electronic courtesy copies also shall be delivered to the undersigned Assistant United States Attorneys.



affect any Settling Defendant's continuing obligation to retrofit, and/or conduct or allow inspections or surveys of, the Helena, the Additional Property, or the New Front Street Buildings, as specified in this Consent Decree, unless that Settling Defendant has obtained in writing, as a condition of sale or transfer, the purchaser or transferee's commitment to assume such obligations, so that the purchaser or transferee will be bound by the terms of this Consent Decree to make retrofits and allow or conduct inspections or surveys as set forth in this Consent Decree, and will be subject to the jurisdiction of this Court.

39. Should an owner of the Helena, the Additional Property, or the New Front Street Buildings decide to sell or transfer any ownership of the Helena, , the Additional Property, or the New Front Street Buildings, in whole or in part, or any portion thereof, prior to the completion of the retrofits specified in this Consent Decree's Appendices describing the retrofits for the Helena, , the Additional Property, or the New Front Street Buildings, such owner will, at least thirty (30) days prior to completion of the sale or transfer: (a) provide each prospective buyer with a copy of this Consent Decree and written notice that the property is subject to this Consent Decree, including specifically Settling Defendants' obligations to either (i) complete required retrofit work and allow inspections, or (ii) assign such obligations to the purchaser or transferee by obtaining the purchaser or transferee's commitment to be bound by this Order, subject to the jurisdiction of this Court; 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 OTHER DESIGN AND CONSTRUCTION**

40. For the duration of this Consent Decree, the Settling Defendants shall maintain, and provide to the United States upon request, the following information and statements

---

regarding any multifamily dwellings intended to be purchased, developed, built, designed, and/or engineered in whole or in part, by any one of them or by any entities in which any one of them has a position of control as an officer, director, member, or manager, or have a ten-percent (10%) or larger ownership share:

- the name and address of the project;
- a description of the project and the individual units;
- the name, address, and telephone number of the civil engineer(s) involved with the project;
- a statement from the civil engineer(s) involved with the project acknowledging and describing his/her knowledge of and training in the requirements of the FHA and in the field of accessible site design, 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 FHA, and stating a Standard with which the design specifications comply;<sup>2</sup>
- the name, address and telephone number of the architect(s) who are employed or retained by any Settling Defendant and are involved with the project;
- a statement from all architect(s) who are employed or retained by any Settling Defendant and are involved with the project, acknowledging and describing his/her knowledge of and training in the requirements of the FHA and the Guidelines, and in the field of accessible site design, certifying that he/she has reviewed the architectural plans for the project and that the design specifications therein fully comply with the requirements of the FHA, and stating a Standard with which the design specifications comply.

---

<sup>2</sup> The Settling Defendants shall provide such a statement from the civil engineers, if any, that they employ or retain for the project. The Settling Defendants shall submit a request, in writing, for such a statement to any other civil engineers involved with the project but who are not employed or retained by the Settling Defendants, and shall forward any response to the United States upon receipt.

41. If the engineering documents or architectural plans referred to in paragraph "40" are revised, and the revisions could have any impact on whether the dwellings or complex complies with the FHA, the associated Settling Defendant shall obtain, maintain, and provide to the United States upon request, a statement from the site engineer(s) or architect(s) who are employed or retained by any such Settling Defendant and are involved with the project, as applicable, that all specifications in the revised engineering documents or architectural plans, as pertinent, comply with the requirements of the FHA, and stating a Standard with which the design specifications comply.

42. For each Covered Multifamily Dwelling that any of the Settling Defendants construct during the term of this Consent Decree, that Settling Defendant shall retain an FHA compliance consultant (the "FHA Consultant") to help ensure that the as-constructed features at such properties comply with the FHA's Accessible Design Requirements. That Settling Defendant shall direct its employees, agents, and/or contractors to seek the FHA Consultant's advice regarding the selection of appliances (*e.g.*, refrigerators and ranges) and fixtures (*e.g.*, doors, thresholds, and lavatories), the effect of deviations from the architects' plans on the accessibility of conditions at the property, as well as other issues that arise during construction that affect accessibility. Further, prior to the completion of construction of each building, any Settling Defendant that constructs a Covered Multifamily Dwelling shall arrange for the FHA Consultant to conduct a visit of the building to identify any construction issues that may result in inaccessible conditions and recommend appropriate solutions.

43. The agreement or contract between any Settling Defendant that constructs a Covered Multifamily Dwelling and the FHA Consultant shall reference the fact that the FHA Consultant is being retained pursuant to this Consent Decree. Further, within thirty (30) days of retaining the FHA Consultant, the Settling Defendants shall provide a copy of this Consent

Decree to the FHA Consultant and secure the signed statement from the FHA Consultant acknowledging that he or she has received and read the Consent Decree and has had an opportunity to have questions about the Consent Decree answered. This statement shall be substantially similar to the form of Appendix H.

44. During the term of this Consent Decree, the Settling Defendants shall submit, on an annual basis, a certification to the counsel for the United States affirming that they have retained an FHA Consultant for each Covered Multifamily Dwelling under construction during that year and specifying each covered multifamily dwelling for which an FHA Consultant was retained by any Settling Defendant to provide advice and the identity (and affiliation, if applicable) of the FHA Consultant. The Settling Defendants shall provide this certification within fifteen (15) days of the end of each twelve-month period from the entry of this Consent Decree.

45. For the term of this Consent Decree, Settling Defendants shall design and construct all new Covered Multifamily Dwellings in full compliance with a Standard. During the term of this Consent Decree, upon reasonable prior notice to the Settling Defendants, the United States will be permitted full access to such properties to inspect for compliance with such standards, rules, and laws.

#### **XI. PAYMENTS TO AGGRIEVED PERSONS**

46. Within thirty (30) days of entry of this Consent Decree, the Settling Defendants shall deposit in an interest-bearing account the sum of TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000) for the purpose of compensating any aggrieved persons who may have suffered as a result of the Settling Defendants' discriminatory housing practices regarding the Helena, the New Front Street Buildings, and/or the Additional Property. This deposited money, plus any accrued interest, shall be referred to as the "Initial Settlement Fund."

47. Within fifteen (15) days of the entry of this Consent Decree, the Settling Defendants shall publish the Notice to Persons Who May Have Suffered From Inadequate Accessible Features at the Helena and Other Rental Buildings ("Notice") at Appendix F informing readers of the availability of compensatory funds. The Notice shall be no smaller than three (3) columns by six (6) inches and shall be published on three occasions in each of the following newspapers: the *Wall Street Journal*; the *New York Times*; the *Daily News*; and the *New York Post*. The three (3) publication dates shall be separated from one another by twenty-one (21) days, and at least two (2) of the publication dates shall be on a Sunday (or Saturday, if the newspaper is not published on Sunday). Within then ten (10) days of each publication date, the Settling Defendants shall provide the newspapers containing the Notice to the United States.

48. Within fifteen (15) days of entry of this Consent Decree, the Settling Defendants shall place on <http://www.thehelena.com> a link to an electronic version of the Notice in an Adobe Acrobat Portable Document Format ("PDF"). The link should state "Notice to Persons Who May Have Suffered From Inadequate Accessible Features at the Helena and Other Rental Buildings," and should appear on the upper half of the website, in a conspicuous font style and color, in a font size no smaller than the font size for any of the terms "Green Design," "Floor Plans," "Residences," "Amenities," "Neighborhood," "Gallery," and "Contact" as they appeared as on November 9, 2015.

49. Within fifteen (15) days of entry of this Consent Decree, the Settling Defendants shall place, on any website maintained by them with respect to the Additional Property, a link to an electronic version of the Notice in an Adobe Acrobat Portable Document Format ("PDF"). The link should state "Notice to Persons Who May Have Suffered From Inadequate Accessible Features at the [Additional Property]," and should appear on the upper half of the website, in a font that is clearly visible, in a prominent font size.

---

50. Within fifteen (15) days of the entry of this Consent Decree, the Settling

Defendants shall send a copy of the Notice to each of the following organizations:

Brooklyn Center for Independence of the Disabled  
27 Smith Street, Suite 200  
Brooklyn, New York 11201;

Bronx Independent Living Services  
4419 Third Avenue, Suite 2C  
Bronx, New York 10457;

Center for Independence of the Disabled, NY  
841 Broadway, #301  
New York, New York 10003;

Disability Law Center at New York Lawyers for the Public Interest  
151 W. 30th Street, 11th Floor  
New York, New York 10001;

Disability Rights Advocates  
1560 Broadway, 10th Floor  
New York, New York 10036;

Fair Housing Justice Center  
5 Hanover Square, 17th Floor  
New York, New York 10004;

Harlem Independent Living Center  
289 St. Nicholas Avenue, Suite 21, Lower Level  
New York, New York 10027;

The Legal Aid Society of New York  
199 Water Street  
New York, New York 10038;

Legal Services NYC  
350 Broadway, Sixth Floor  
New York, New York 10016;

MFY Legal Services, Inc.  
299 Broadway  
New York, New York 10007; and

United Spinal Association  
75-20 Astoria Blvd.  
Jackson Heights, New York 11370.



51. Within thirty (30) days of the entry of this Consent Decree, the Settling Defendants shall send, by first-class mail, postage pre-paid, a copy of the Notice to each past or present resident at the Helena, the New Front Street Buildings, and the Additional Property. For past residents, the Settling Defendants will have complied with the requirements of this paragraph by mailing such notice to the forwarding address provided by the former resident at the time the former resident moved out of the Helena, the New Front Street Buildings, or the Additional Property. Within sixty (60) days of entry of this Consent Decree, the Settling Defendants shall provide the United States with proof that the Notices have been sent.

52. The United States may make its own efforts to locate and provide notice to potential aggrieved persons.

53. The Settling Defendants shall permit the United States, upon reasonable notice, to review any records that may reasonably facilitate its investigations to locate allegedly aggrieved persons and make determinations regarding their potential claims. In addition, the Settling Defendants shall identify to the United States any allegedly aggrieved persons or any past, present, or prospective residents of the Helena, the New Front Street Buildings, or the Additional Property who have disabilities or regular guests with disabilities, to the extent that the Settling Defendants, or their employees or agents at the Helena, the New Front Street Buildings, or the Additional Property, possess the information required to make such identifications.

54. 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 inform the Settling Defendants in writing of each of its determinations, together with a copy of a sworn declaration from each aggrieved

person setting forth the factual basis of the claim. If the United States determines that the Initial Settlement Fund is insufficient to compensate all aggrieved persons at the Helena, the New Front Street Buildings, or the Additional Property, the United States shall be entitled to make determinations that award aggrieved persons, in the aggregate, a total amount exceeding the amount in the Initial Settlement Fund, but not exceeding FIVE HUNDRED AND FIFTEEN THOUSAND DOLLARS (\$515,000).

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

56. The Settling Defendants shall, 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, 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 the \$515,000, including accrued interest. No aggrieved person shall be paid until he/she has executed and delivered to the United States the release at Appendix G.



57. 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 XI of this Consent Decree.

58. In the event that less than the total amount in the Initial Settlement Fund including accrued interest is distributed to aggrieved persons, and after the United States determines that no further aggrieved persons will be identified, the remainder shall be distributed to a qualified organization(s) mutually agreed upon by the United States and the Settling Defendants, subject to the approval of the Court, for the purpose of conducting fair housing enforcement-related activities in New York City. The Settling Defendants shall distribute the funds in a manner directed by the Court after the United States informs the Court that no further aggrieved persons will be identified.

## **XII. CIVIL PENALTY**

59. Within thirty (30) days of the date of the entry of this Consent Decree, the Settling Defendants shall pay a civil penalty of FIFTY-FIVE THOUSAND DOLLARS (\$55,000) pursuant to 42 U.S.C. § 3614(d)(1)(C) to vindicate the public interest. The Settling Defendants shall pay said sum by submitting a check made payable to the "United States of America" to the United States.

## **XIII. EDUCATIONAL PROGRAM**

60. Within thirty (30) days of the entry of this Consent Decree, each Settling Defendant shall provide a copy of this Consent Decree to all of its agents and employees involved in the design or construction of the Helena or the Additional Properties and secure the signed statement from each agent or employee acknowledging that he or she has received and read the Consent Decree, and has had an opportunity to have questions about the Consent Decree answered. This statement shall be substantially similar to the form of Appendix H.

61. During the term of this Consent Decree, any new agent or supervisor of a Settling Defendant who will be involved in the design or construction of Covered Multifamily Dwellings shall, within thirty (30) days after the date he or she commences an agency or employment relationship with any Settling Defendant, be given a copy of this Consent Decree by such Settling Defendant, and such Settling Defendant shall require each such new agent or employee to sign a statement, acknowledging that he or she has received and read the Consent Decree, and has had an opportunity to have questions about the Consent Decree answered. This statement shall be substantially similar to the form of Appendix H.

62. Within thirty (30) days of the entry of this Consent Decree, the Settling Defendants shall provide a copy of this Consent Decree to all their agents and employees involved in rental of units at the Helena or the Additional Property, and/or the provision of services to residents at the Helena or the Additional Property, and secure the signed statement from each agent or employee acknowledging that he or she has received and read the Consent Decree, and has had an opportunity to have questions about the Consent Decree answered. This statement shall be substantially similar to the form of Appendix H.

63. During the term of this Consent Decree any new agent or supervisor of the Settling Defendants who will be involved in the renting of units at the Helena, the New Front Street Buildings, or the Additional Property, and/or the provision of services to residents at the Helena, the New Front Street Buildings, or the Additional Property shall, within thirty (30) days after the date he or she commences an agency or employment relationship with any of the Settling Defendants, be given a copy of this Consent Decree by such Settling Defendant, and such Settling Defendant shall require each such new agent or employee to sign a statement, acknowledging that he or she has received and read the Consent Decree, and has had an

opportunity to have questions about the Consent Decree answered. This statement shall be substantially similar to the form of Appendix H.

64. In lieu of providing individuals or entities with copies of the Consent Decree as required by the preceding paragraphs of Part X, a Settling Defendant may instead provide a summary of the Consent Decree with the United States' advance written approval of the form and content of any proposed summary.

65. The Settling Defendants shall also ensure that they and their employees and agents who have supervisory authority over the design and/or construction of Covered Multifamily Dwellings have a copy of, are familiar with, and personally have reviewed, 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 Settling 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 shall be informed of those portions of the FHA that relate to accessibility requirements, reasonable accommodations and reasonable modifications.

66. Within ninety (90) days of the date of entry of this Consent Decree, the Settling Defendants and all employees and agents whose duties, in whole or in part, involve or will involve supervision over the development, design and/or construction of multifamily dwellings of the type at issue in this case shall undergo training on the design and construction requirements of the FHA.<sup>3</sup> The training shall be conducted by a qualified third-party individual,

---

<sup>3</sup> The educational program provided to employees not engaged in design, construction, or maintenance, such as sales and rental employees, may focus on the portions of the law that relate generally to accessibility requirements as opposed to technical design and construction requirements.

not associated with any Settling Defendant or its counsel, and approved by the Settling Department of Justice; and any expenses associated with this training shall be paid by Settling Defendants. The Settling Defendants shall provide to the United States, thirty (30) days before the training, the name(s), address(es) and telephone number(s) of the trainer(s); and copies of the training outlines and any materials to be distributed by the trainers. The Settling Defendants shall provide to the United States, thirty (30) days after the training, certifications executed by all Settling Defendants and covered employees and agents confirming their attendance, in a form substantially equivalent to Appendix I.

#### **XIV. NOTICE OF THE SETTLING DEFENDANTS' NON-DISCRIMINATION POLICY**

67. Within ten (10) days of the date of entry of this Consent Decree, the Settling Defendants shall 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 ten (10) by fourteen (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.

68. For the duration of this Consent Decree, in all future advertising in newspapers and electronic media, and on pamphlets, brochures and other promotional literature regarding the existing complexes or any new complexes that any Settling Defendants may develop or construct, the Settling Defendants shall place, in a conspicuous location, a statement that the dwelling units include features for persons with disabilities required by the FHA.

69. One hundred and eighty (180) days after the date of entry of this Consent Decree, the Settling Defendants shall submit to the United States an initial report regarding the signed statements of Settling Defendants' employees and agents who have completed the training program specified in paragraph "66" of this Consent Decree. Thereafter, during the term of this



Consent Decree, the Settling Defendants shall, on the anniversary of the entry of this Consent Decree, submit to the United States a report containing the signed statements of new employees and agents that, in accordance with paragraphs "63" and "65" of this Consent Decree, they have received and read the Consent Decree, and had an opportunity to have questions about the Consent Decree answered, except that the last report shall be due sixty (60) days prior to the anniversary.

70. For the duration of this Consent Decree, the Settling Defendants shall advise the United States in writing within fifteen (15) days of receipt of any written administrative or judicial fair housing complaint regarding any property owned, managed, and/or designed or constructed by them, or against any employees or agents of the Settling Defendants working at or for any such property, regarding discrimination on the basis of disability in housing. Upon reasonable notice, the Settling Defendants shall also provide the United States all information it may request concerning any such complaint. The Settling Defendants shall also advise counsel for the United States, in writing, within fifteen (15) days of the resolution of any complaint.

71. For the term of this Consent Decree, the Settling Defendants are required to preserve all records related to this Consent Decree for the Helena, the New Front Street Buildings, or the Additional Property and any other Covered Multifamily Dwellings designed, constructed, owned, operated, or acquired by them during the duration of this Consent Decree. Upon reasonable notice to the Settling Defendants, representatives of the United States shall be permitted to inspect and copy any records of the Settling Defendants or inspect any developments or residential units under the Settling Defendants' control bearing on compliance with this Consent Decree at any and all reasonable times, provided, however, that the United States shall endeavor to minimize any inconvenience to the Settling Defendants from such inspections.

#### **XV. LOW-INCOME HOUSING TAX CREDIT PROGRAM COMPLIANCE**

72. The Settling Defendants are hereby notified that, in the event that the Settling Defendants fail to comply with any of the terms of this Consent Decree and the United States obtains an order establishing such noncompliance, the United States may take any appropriate action, including but not limited to notifying the appropriate state housing finance agency of the violation. See 26 U.S.C. § 42(m)(1)(B)(iii).

#### **XVI. DURATION OF CONSENT DECREE AND TERMINATION OF LEGAL ACTION**

73. This Consent Decree shall remain in effect for three (3) years following entry of this Consent Decree by the Court. By consenting to entry of this Consent Decree, the parties agree that in the event that the Settling Defendants engage in any future conduct occurring after entry of this Consent Decree that leads to a determination of a violation of the FHA, such conduct shall constitute a “subsequent violation” pursuant to 42 U.S.C. § 3614(d)(1)(C)(ii).

74. The Court shall retain jurisdiction for the duration of this Consent Decree to enforce the terms of the Consent Decree. The United States may move the Court to extend the duration of the Consent Decree in the interests of justice.

75. The United States and the Settling Defendants shall endeavor, in good faith, to resolve informally any differences regarding interpretation of and compliance with this Consent Decree prior to bringing such matters to the Court for resolution. However, in the event of a failure by Settling Defendants to perform, in a timely manner, any act required by this Consent Decree 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.

**XVII. TIME FOR PERFORMANCE**

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

**XVIII. MISCELLANY**

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

78. The Parties understand and agree that this Consent Decree contains the entire agreement between them, and that no statements, representations, promises, agreements, or negotiation, oral or otherwise, between the Parties or their counsel that are not included herein shall be of no force or effect.

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

*For the United States:*

PREET BHARARA  
United States Attorney

By: 

LI YU  
JESSICA JEAN HU  
JACOB T. LILLYWHITE  
Assistant United States Attorneys  
86 Chambers Street, 3rd Floor  
New York, New York 10007  
Tel. Nos. (212) 637-2734/2726/2639  
Fax. Nos. (212) 637-2717  
Li.Yu@usdoj.gov  
Jessica.Hu@usdoj.gov  
Jacob.Lillywhite@usdoj.gov

*For the Settling Defendants:*

ROSENBERG & ESTIS, P.C.

By: 

LUISE A. BARRACK  
CORI A. ROSEN  
733 Third Avenue  
New York, New York 10017  
Tel. Nos. (212) 551-8430/8401  
Fax. Nos. (212) 531-8484  
LBarrack@rosenbergestis.com  
CRosen@rosenbergestis.com

SO ORDERED: 

HON. RONNIE ABRAMS  
UNITED STATES DISTRICT JUDGE

11/13/15



**APPENDIX A**  
**PUBLIC AND COMMON USE AREAS AT THE HELENA**

As soon as reasonably possible, but no later than 6 months from the entry of this Order, Defendants shall finish the retrofits identified in this Appendix A.

**FAIR HOUSING ACCESSIBILITY GUIDELINES REQUIREMENT 2**  
**LEASING OFFICE**

ELEMENT	CONDITION	AGREED UPON RETROFIT
Entrance door – Sign	No raised letters.	Will provide raised letters and Braille.
Reception counter	47" above the finished floor ("AFF")	Will lower to between 28" and 34" AFF.

**BICYCLE STORAGE**

ELEMENT	CONDITION	AGREED UPON RETROFIT
Ramp leading to the entrance door	Running slope 8.8% to 9.6%	Will reduce running slope to 8.33% max.

**TOILET ROOM AT LOBBY**

ELEMENT	CONDITION	AGREED UPON RETROFIT
Toilet – Seat height	16" AFF.	Will adjust seat height to between 17" and 19" AFF.
Toilet – Rear grab bar	30" AFF.	Will adjust grab bar height to between 33" and 36" AFF.
Toilet – Side grab bar	30" AFF, 32" long.	Will adjust grab bar height to between 33" and 36" AFF and increase grab bar length to 42" min.
Toilet paper dispenser	40" to 45½" from the rear wall.	Will adjust to 36" max. from the rear wall.

Sink	No pipe insulation.	Will install pipe insulation.
Paper towel dispenser	63" AFF to highest operating control.	Will lower to 48" max. AFF to highest operating control.

### CHILDREN'S PLAYROOM

ELEMENT	CONDITION	AGREED UPON RETROFIT
Entrance door	Automatic door inoperable.	Will provide operable automatic door.
Entrance door - Threshold	1" high on the room side.	Will make flush; or provide ¼" high max. threshold, if not beveled; or provide ½" high max. threshold, beveled at ratio of 1:2 max. Alternatively, and upon agreement of the Government, will install threshold extensions with 8.33% max. running slopes.
Sanitary wipes dispenser	56" AFF.	Will lower to 48" max. AFF.

### CHILDREN'S PLAYROOM – TOILET ROOM

ELEMENT	CONDITION	AGREED UPON RETROFIT
Entrance door - Threshold	7/8" high on the bathroom side; ¾" high on the playroom side; noncompliant 1:1 bevel.	Will make flush; or provide ¼" high max. threshold, if not beveled; or provide ½" high max. threshold, beveled at ratio of 1:2 max. Alternatively, and upon agreement of the Government, will install threshold extensions with 8.33% max. running slopes.
Entrance door	Opening force of 8 lbs.	Will decrease opening force to 5 lbs. max.
Lavatory	Centerline 11½" from side wall.	Will adjust centerline to 15" min. from sidewall.

Lavatory	No pipe insulation.	Will install pipe insulation.
----------	---------------------	-------------------------------

#### FITNESS CENTER

ELEMENT	CONDITION	AGREED UPON RETROFIT
Accessible route to 8 <sup>th</sup> floor level	No accessible route.	Will install accessible hardware on the corridor side of the 8 <sup>th</sup> floor entrance to the fitness.
Entrance door – 7 <sup>th</sup> floor level	Opening force of 9 lbs.	Will decrease opening force to 5 lbs. max.
Sanitary wipes dispenser – 7 <sup>th</sup> floor level	56" AFF.	Will lower to 48" max. AFF for forward reach.
Toilet room, 7 <sup>th</sup> floor level – Entrance door threshold	Noncompliant 1:1 bevel.	Will provide 1:2 bevel.
Toilet room, 7 <sup>th</sup> floor level – Entrance door maneuvering clearance	5¾" push side latch clearance; pull side latch clearance obstructed by an exercise machine.	Will remove the door stopper to increase push side latch clearance.
Toilet room, 7 <sup>th</sup> floor level – Toilet	Centerline 20½" from side wall.	Will decrease centerline to 18" from side wall.
Toilet room, 7 <sup>th</sup> floor level – Toilet side grab bar	30" long	Will increase grab bar length to 42" min.
Toilet room, 7 <sup>th</sup> floor level – Lavatory	Centerline 11½" from side wall.	Will increase centerline to 15" from side wall.
Toilet room, 7 <sup>th</sup> floor level – Lavatory	No pipe insulation.	Will install pipe insulation.

#### LOUNGE – 9<sup>TH</sup> FLOOR

ELEMENT	CONDITION	AGREED UPON RETROFIT
Kitchen – Sink clearance	No knee clearance for forward approach.	Will provide for forward approach with compliant knee and toe clearance and pipe



		insulation.
Massage room – Entrance door threshold	1 ½" high on the room side; ½" high on the non-room side; noncompliant 1:1 bevel.	Will make flush; or provide ¼" high max. threshold, if not beveled; or provide ½" high max. threshold, beveled at ratio of 1:2 max. Alternatively, and upon agreement of the Government, will install threshold extensions with 8.33% max. running slopes.
Massage room – Paper towel dispenser	50" AFF.	Will lower to 48" max. AFF.
TV room – Entrance doors from the lounge	Clear width of 22½" for each door leaf.	Will adjust to provide 32" min. clear width for each door leaf.

#### TOILET ROOM – 9<sup>TH</sup> FLOOR LOUNGE NEAR MASSAGE ROOM

ELEMENT	CONDITION	AGREED UPON RETROFIT
Entrance door - Threshold	1 ½" high on the room side; ½" high on the non-room side; noncompliant 1:1 bevel.	Will make flush; or provide ¼" high max. threshold, if not beveled; or provide ½" high max. threshold, beveled at ratio of 1:2 max. Alternatively, and upon agreement of the Government, will install threshold extensions with 8.33% max. running slopes.
Toilet	Centerline 18¾" from side wall.	Will decrease centerline to 18" from side wall.
Lavatory	No pipe insulation.	Will install pipe insulation.

## LAUNDRY ROOMS

ELEMENT	CONDITION	AGREED UPON RETROFIT
Entrance door – Threshold (All floors except 26 <sup>th</sup> , 28 <sup>th</sup> , 32 <sup>nd</sup> )	5/8" high on laundry room side; noncompliant 1:1 bevel.	Will make flush; or provide ¼" high max. threshold, if not beveled; or provide ½" high max. threshold, beveled at ratio of 1:2 max. Alternatively, and upon agreement of the Government, will install threshold extensions with 8.33% max. running slopes.
Entrance door – Threshold (26 <sup>th</sup> , 28 <sup>th</sup> , 32 <sup>nd</sup> floors)	1¼" to 1 7/8" high on hallway side; noncompliant 1:1 bevel.	Will make flush; or provide ¼" high max. threshold, if not beveled; or provide ½" high max. threshold, beveled at ratio of 1:2 max. Alternatively, and upon agreement of the Government, will install threshold extensions with 8.33% max. running slopes.
Entrance door (7 <sup>th</sup> , 8 <sup>th</sup> , 9 <sup>th</sup> , 11 <sup>th</sup> , 38 <sup>th</sup> , 29 <sup>th</sup> floors)	Closing speed of 1 to 2 seconds	Will adjust closing speed to 3 sec. min. from 90 degrees open to 12 degrees open
Entrance door – Maneuvering clearance (34 <sup>th</sup> floor)	16½" pull side latch clearance.	Will increase pull side latch clearance to 18" min.
Overhead soffit (34 <sup>th</sup> floor)	Protrudes 25¾" at 72½" AFF.	Will adjust to protrude 4" max.; or adjust to 80" min. AFF; or provide cane detectable barrier below.
Entrance door – Maneuvering clearance (26 <sup>th</sup> floor)	4" pull side latch clearance from the table; 7¾" from the table support.	Will increase pull side latch clearance to 18" min.
Folding table (12 <sup>th</sup> through 16 <sup>th</sup> floors)	20 5/8" to 26 ½" clear width between supports, which provides a noncompliant forward approach.	Will replace table with shelf (without vertical supports) to provide compliant forward approach of 30" min.
Controls – Upper dryers (All floors except 33 <sup>rd</sup> )	71½" AFF.	Will replace dryers to provide controls at 48" max. AFF measured to highest operable control.

Upper dryers (All floors)	Dryer opening at 55½" AFF.	Will replace dryers to provide opening at 48" max. AFF.
---------------------------	----------------------------	---

#### LAUNDRY VALET HALLWAY AT ELEVATOR LOBBY

ELEMENT	CONDITION	AGREED UPON RETROFIT
Laundry valet transaction counter	42" AFF.	Will install a folder-down auxiliary counter at 34" AFF.
Laundry card kiosks (Both locations)	57" AFF to highest operating control.	Will adjust to 48" max. AFF measured to highest operable control.
Laundry card kiosks (Both locations)	Protrudes 7" at 47½" AFF.	Will provide cane-detectable barrier below.
Ramp to 11 <sup>th</sup> Street entrance door	Running slope of 10.8% to 13.0%.	Will post signage to indicate clearly that this ramp is for use by the building staff, and not for tenants.

#### TRASH ROOMS

ELEMENT	CONDITION	AGREED UPON RETROFIT
Door – Threshold (All floors)	5/8" high on the trash room side; noncompliant 1:1 bevel.	Will make flush; or provide ¼" high max. threshold, if not beveled; or provide ½" high max. threshold, beveled at ratio of 1:2 max. Alternatively, and upon agreement of the Government, will install threshold extensions with 8.33% max. running slopes.
Entrance door (Floors 22 and 23)	3" to 4 3/8" pull side latch clearance.	Will provide alternative trash pick-up by the building staff at set times on a daily basis for any tenant or guest with disabilities residing on floors 22 and 23. Tenants will be notified of this procedure



		in writing; and notices of this procedure will be posted on building bulletin boards.
Entrance door (Floors 3-7, 10-14, 16, 28, 35)	Closing speed of 1 to 2 seconds.	Will decrease closing speed to 3 sec. min. from 90 degrees open to 12 degrees open.
Chute access panel (Floors 33, 35, 39)	Opening forces of 9 lbs. to 12 lbs.	Will decrease opening force to 5 lbs. max.

#### TENANT STORAGE – 6<sup>TH</sup> FLOOR

ELEMENT	CONDITION	AGREED UPON RETROFIT
Entrance door - Threshold	½" high on the hallway side; noncompliant 1:1 bevel; 7/8" high on the room side; noncompliant 1:1 bevel.	Will make flush; or provide ¼" high max. threshold, if not beveled; or provide ½" high max. threshold, beveled at ratio of 1:2 max. Alternatively, and upon agreement of the Government, will install threshold extensions with 8.33% max. running slopes.

#### ROOF TERRACE

ELEMENT	CONDITION	AGREED UPON RETROFIT
Ramp leading to terrace door	Running slope of 8.1% to 10.2%.	Will reduce running slope to 8.33% max.
Terrace door	1" high on the exterior side; noncompliant 1:1 bevel.	Will make flush; or provide ¼" high max. threshold, if not beveled; or provide ½" high max. threshold, beveled at ratio of 1:2 max. Alternatively, and upon agreement of the Government, will install threshold extensions with 8.33% max. running slopes.

**APPENDIX B**

**UNIT RETROFITS AT THE HELENA**

As soon as reasonably possible, but no later than 6 months from the entry of this Order, Defendants shall finish the retrofits listed in this Appendix B.

**CLEARING OPEN WIDTH OF DOORS**

**FAIR HOUSING ACCESSIBILITY GUIDELINES REQUIREMENT 3, SEC. (2)**

UNIT(S)	CONDITION	AGREED UPON RETROFIT
All swinging bedroom, bathroom, and walk-in closet doors	Clear opening width typically is 31 1/8"; door leaf 33 1/2" wide	Will increase clear width to 31 5/8" min., with the use of a swing-clear offset door hinge or otherwise, upon the request of a tenant or prospective tenant.

**KITCHEN – WOODEN THRESHOLD**

**FAIR HOUSING ACCESSIBILITY GUIDELINES REQUIREMENT 4, SEC. (2)**

UNIT(S)	CONDITION	AGREED UPON RETROFIT
All units	5/8" to 3/4" high total; noncompliant 1:1.5 bevel	Will make flush; or provide 1/4" high max. threshold, if not beveled; or provide 1/2" high max. threshold, beveled at ratio of 1:2 max. Retrofit will be made upon the request of a tenant or prospective tenant, upon vacancy, or within the term of the Consent Decree, whichever comes earliest.

**BATHROOM – MARBLE THRESHOLD**

**FAIR HOUSING ACCESSIBILITY GUIDELINES REQUIREMENT 4, SEC. (2)**

UNIT(S)	CONDITION	AGREED UPON RETROFIT
Bathroom Style 1	5/8" to 3/4" high total; noncompliant 1:1.5 bevel	Will make flush; or provide 1/4" high max. threshold, if not beveled; or provide 1/2" high max. threshold, beveled at ratio of 1:2 max. Retrofit will be made upon the request of a tenant or prospective tenant, upon vacancy, or within the term of the Consent Decree, whichever comes earliest.
Bathroom Style 2	3/4" high on bathroom side; 1/2"	Will make flush, or provide 1/4" high max. threshold, if not



	high on hallway side; ¼" noncompliant bevel	beveled, or provide ½" high max. threshold, beveled at ratio of 1:2 max. Retrofit will be made upon the request of a tenant or prospective tenant, upon vacancy, or within the term of the Consent Decree, whichever comes earliest.
--	---	--

### UNIT ENTRANCE DOOR THRESHOLD

#### FAIR HOUSING ACCESSIBILITY GUIDELINES REQUIREMENT 4, SEC. (4)

UNIT(S)	CONDITION	AGREED UPON RETROFIT
All units	Noncompliant 1:1 bevel	Will adjust bevel to no steeper than 1:2.
Units 19B, 28A, and 28B	1 3/8" high on the hallway side	Will make flush, or provide ¼" high max. threshold, if not beveled, or provide ½" high max. threshold, beveled at ratio of 1:2 max.

### TERRACE DOOR THRESHOLD

#### FAIR HOUSING ACCESSIBILITY GUIDELINES REQUIREMENT 4, SEC. (4)

UNIT(S)	CONDITION	AGREED UPON RETROFIT
34G-40G	Level change at interior side of terrace door is 1 ½" (one step up to terrace door)	Will install a lift or a compliant ramp upon the request of a tenant or prospective tenant.
34G-40G	Level change at exterior side of terrace door is 1 ¼"	Will reduce level change at terrace door to ¾" high max., beveled at 1:2 max. upon the request of a tenant or prospective tenant.
34F-40F	Threshold at terrace door is 2" high total, no bevel	Will reduce threshold to ¾" high max., beveled at 1:2 max. Retrofit will be made upon the request of a tenant or prospective tenant, upon vacancy, or within the term of the Consent Decree, whichever comes earliest.

**BATHROOM OUTLETS**  
**FAIR HOUSING ACCESSIBILITY GUIDELINES REQUIREMENT 5**

UNIT(S)	CONDITION	AGREED UPON RETROFIT
3A-40A, 3B-8B, 10B-40B, 3C-33C (hall bathroom), 34C-40C, 12D-40D, 3E-40E, 8F, 10F-40F, 3G-7G, 9G-33G, 3H-40H, 3J-7J, 8J (hall bathroom), 10J-40J, 3K-9K, 11K-40K, 5L-9L, 10L-40L, 3M-40M, 3N-10N, 11N-34N, 3P-33P, 3Q-8Q, 12Q-33Q, 3R-8R, 10R-11R, 3S-8S, 10S, 11S-33S, 3T-8T, 10T-11T, 10U-11U, 10V-11V	No clear floor space at the outlet; outlet is in the corner at the toilet	Will move outlets, install new outlets, or provide wall-mounted power strips such that outlets are located with sufficient clear floor space for a compliant forward or side reach, upon the request of a tenant or prospective tenant, upon vacancy, or within the term of the Consent Decree, whichever comes earliest.

**KITCHEN OUTLETS**  
**FAIR HOUSING ACCESSIBILITY GUIDELINES REQUIREMENT 5**

UNIT(S)	CONDITION	AGREED UPON RETROFIT
3B-8B, 9C-33C, 34D-40D, 34E-40E, 3F-7F, 10F-40F, 3G-7G, 10G-33G, 34H-40H, 9J, 3K-4K, 12M-33M, 3N-8N, 10Q-11Q	10¼" to 11¼" from the refrigerator measured to the centerline of the outlets	Will move outlets, install new outlets, or provide wall-mounted power strips such that distance from the refrigerator measured to the centerline of the outlets is 12" min, upon the request of a tenant or prospective tenant, upon vacancy, or within the term of the Consent Decree, whichever comes earliest.
12D-33D	Kitchen wall outlets, approx. 10½" above finished floor (AFF)	Will move outlets, install new outlets, or provide wall-mounted power strips such that outlets are at or above 15" AFF, upon the request of a tenant or prospective tenant, upon vacancy, or within the term of the Consent Decree, whichever comes earliest.

**THERMOSTAT****FAIR HOUSING ACCESSIBILITY GUIDELINES REQUIREMENT 5**

UNIT(S)	CONDITION	AGREED UPON RETROFIT
3B-8B, 34J-40J, 9K, 3P-8P, 10R-11R	61" AFF measured to the highest operable part.	Will provide wireless thermostat control upon the request of a tenant or prospective tenant. <sup>1</sup>

**LIVING ROOM OUTLETS****FAIR HOUSING ACCESSIBILITY GUIDELINES REQUIREMENT 5**

UNIT(S)	CONDITION	AGREED UPON RETROFIT
3B-8B, 34C-40C, 34D-40D, 9E-40E, 10F-40F, 10G-33G, 34H-40H, 3J-7J, 34J-40J, 9K, 11L-33L, 12M-33M, 3P-8P, 10R-11R, 11S	Approx. 4" AFF measured to the centerline of the outlets.	Will provide power strips such that outlets are at or above 15" AFF upon the request of a tenant or prospective tenant.

**RADIATOR – LIVING ROOM****FAIR HOUSING ACCESSIBILITY GUIDELINES REQUIREMENT 5**

UNIT(S)	CONDITION	AGREED UPON RETROFIT
3B-8B, 34J-40J, 11L-33L	Controls at approx. 4" AFF	Will provide wireless radiator control. <sup>2</sup>

**OBSTRUCTION OF GRAB BAR LOCATION****FAIR HOUSING ACCESSIBILITY GUIDELINES REQUIREMENT 6**

UNIT(S)	CONDITION	AGREED UPON RETROFIT
All units	Banjo counter top at lavatory obstructs grab bar location	In a total of 200 units, will remove or modify the banjo countertops in all bathrooms such that the countertops do not obstruct the grab bar location. Retrofit will be made

<sup>1</sup> Settling Defendants further agree to maintain at least four (4) such remote controls at The Helena at all times.

<sup>2</sup> Settling Defendants further agree to maintain at least six (6) such remote controls at The Helena at all times.



		<p>upon vacancy or within the term of the Consent Decree, whichever comes earliest. Of the 200 units, 70 must be two-bedroom units, 70 must be one-bedroom units, and 60 must be studio units. Further, these units (i) will include those units where the existing refrigerators are being replaced by low-profile refrigerators pursuant to this consent decree, and (ii) are the same units having the bathroom door swing reversed pursuant to this consent decree.</p> <p>For the remaining units, will remove or modify the banjo countertops and install grab bars upon the request of a tenant or prospective tenant.</p> <p><i>In the alternative</i>, the Settling Defendants may, within three (3) months of the Effective Date of the Consent Decree, present information to the United States in support of a revised proposal that they have submitted regarding an alternative means to install grab bars that are equal – in terms of safety and accessibility – to the accessible grab bars described in Chapter 6 of the Fair Housing Act Design Manual. The United States shall have 90 days to notify the Settling Defendants regarding whether it approves such proposal, which approval shall not be unreasonably withheld.<sup>3</sup></p>
--	--	---

#### KITCHEN SINKS AND RANGES

#### FAIR HOUSING ACCESSIBILITY GUIDELINES REQUIREMENT 7, SEC. (1)(a)

UNIT(S)	CONDITION	AGREED UPON RETROFIT
9D-33D, 10R-11R	Sink centerlines are less than 24" from adjacent base cabinet.	Will cover pipes and finish wall and floor beneath removable base cabinets. Retrofit will be made upon

<sup>3</sup> In the event that the Settling Defendants disagree with the United States' decision, they shall have thirty (30) days to seek a decision from the Court on whether the United States' refusal to approve was unreasonable based on the safety and accessibility of the alternative means to install grab bars proposed by the Settling Defendants.

		vacancy or within the term of the Consent Decree, whichever comes earliest.
12N-33N, 3P-8P	Sink centerlines are less than 24" from adjacent base cabinet.	Will cover pipes and finish wall and floor beneath removable base cabinet at the request of a tenant or prospective tenant; provided that this retrofit shall be completed no later than ten (10) days after receiving such a request.
3A-8A, 34A-40A, 3B-8B, 10B-40B, 3C-40C, 3D-8D, 34D-40D, 3E-40E, 3F-8F, 10F-40F, 3G-7G, 9G-40G, 3H-40H, 3J-9J, 34J-40J, 3K-4K, 9K, 34K-40K, 5L-9L, 34L-40L, 3M-9M, 12M-40M, 3N-10N, 9P-33P, 3Q-8Q, 10Q-33Q, 3R-8R, 12R-33R, 3S-8S, 10S-33S, 3T-8T, 10T-11T, 10U-11U, 10V-11V	Range centerlines are less than 24" from adjacent base cabinet, with no removable base cabinet.	<p>In a total of 75 units, will swap range and adjacent cabinet to increase centerline. Retrofit will be made upon the request of a tenant or prospective tenant, upon vacancy, or within the term of the Consent Decree, whichever comes earliest. Of the 75 units, 25 must be two-bedroom units, 25 must be one-bedroom units, and 25 must be studio units; further, these units must (i) include those units where the existing refrigerators are being replaced by low-profile refrigerators pursuant to this consent decree, and (ii) if the Settling Defendants' grab bar proposal is rejected by the United States, will have the bathroom banjo countertops replaced pursuant to this consent decree.</p> <p>For the remaining units, will swap range and adjacent cabinet to increase centerline at the request of a tenant or prospective tenant; provided that this retrofit shall be completed no later than ten (10) days after receiving such a request.</p>

#### KITCHEN CLEARANCE

#### FAIR HOUSING ACCESSIBILITY GUIDELINES REQUIREMENT 7, SEC. (1)(b)

UNIT(S)	CONDITION	AGREED UPON RETROFIT
34J-40J, 10R, 11R	Less than 40" min. width at the refrigerator.	Will install low-profile refrigerators to provide 40" min. width at the refrigerators. Retrofit will be made upon the request of a tenant or prospective tenant, upon vacancy, or within the term of the Consent Decree, whichever comes



		earliest.
3A-40A, 3B-8B, 10B-40B, 3C-40C, 3D-8D, 34D-40D, 3E-40E, 3F-8F, 10F-340F, 3G-7G, 9G-33G, 3H-8H, 9H-40H, 3J-33J, 3K-9K, 11K-40K, 5L-9L, 34L-40L, 3M-40M, 3N-10N, 12N-33N, 3P-11P, 26P-33P, 3Q-8Q, 10Q-33Q, 3R-8R, 12R-33R, 3S-8S, 10S, 11S-33S, 3T-8T, 10T-11T, 10U-11U, 10V-11V	Less than 40" min. width at the refrigerator and/or at the range	Will provide 40" min. width at the refrigerators and/or at the ranges at the request of a tenant or prospective tenant

### BATHROOM CLEAR FLOOR SPACE

#### FAIR HOUSING ACCESSIBILITY GUIDELINES REQUIREMENT 7, SEC. (2)(a)(i)

UNIT(S)	CONDITION	AGREED UPON REQUEST
All units except 9G, 3H-8H, 9J-25J, 5K-8K, 11K-25K, 5L-9L, 10M-11M, 3N-8N, 10N, 3Q-8Q, 10Q-11Q, 10S	Clear floor space beyond the door swing is less than 30" wide by 48" long	For a total of 140 units, will reverse the bathroom door swings. Retrofit will be made upon the request of a tenant or prospective tenant, upon vacancy, or within the term of the Consent Decree, whichever comes earliest. Of the 140 units, 50 must be two-bedroom units, 50 must be one-bedroom units, and 40 must be studio units.  For the remaining units, will reverse bathroom door swing at the request of a tenant or prospective tenant; provided that this retrofit shall be completed no later than ten (10) days after receiving such a request.

### BATHROOM TOILETS

#### FAIR HOUSING ACCESSIBILITY GUIDELINES REQUIREMENT 7, SEC. (2)(a)(ii)

UNIT(S)	CONDITION	AGREED UPON RETROFIT
Units 26J-40J, 26P-33P, 11S.	Centerline less than 18" from side wall	Will install offset flange to move toilet as close to between 16" and 18" away from side wall as the flange will permit. Retrofit will be made upon the request of a tenant or prospective tenant, upon vacancy, or within the term of

		the Consent Decree, whichever comes earliest.
Units 3A-8A, 3C-8C, 3D-8D, 34D-40D, 3E-8E, 8F, 10F-33F, 10G-33G, 12J-25J, 11K-33K.	Centerline less than 18" from side wall	Will install offset flange to move toilet as close to between 16" and 18" away from side wall as the flange will permit upon the request of a tenant or prospective tenant; provided that the retrofit shall be completed within thirty (30) days after receiving such a request.
Units 10B-33B, 34G-40G, 34H-40H, 9J, 34K-40K, 34L-40L, 9M, 12M-40M, 3N-9N, 12N-33N, 9P, 10Q-33Q, 3R-8R, 12R-33R, 3S-8S, 12S-33S, 3T-8T, 10T-11T, 10U-11U, 10V-11V.	Centerline greater than 18" from side wall	Will install a ledger strip on the side wall for installation of grab bar upon the request of a tenant or prospective tenant; provided that the retrofit shall be completed within ten (10) days after such a request.



**APPENDIX C**

**NOTICE OF RETROFITS TO PUBLIC AND COMMON USE AREAS  
OF THE HELENA**

To Our Residents and Prospective Residents:

Federal law requires that the public and common use areas at the Helena contain accessibility features for persons with disabilities. Within the next six 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 mandatory retrofits we will be undertaking is available at the leasing office. We do not anticipate that current residents will have to be relocated during the term of their tenancy or that prospective residents will have their move-in dates delayed because of the retrofits we will be undertaking.

Should you have questions regarding this letter, please contact the leasing office at the Helena or the United States Attorney's Office, Southern District of New York, at (212) 637-0840.

Sincerely,  
The Helena

## APPENDIX D

### NOTICE TO RESIDENTS OR PROSPECTIVE RESIDENTS OF RETROFITS FOR THE HELENA, WHICH MUST BE SCHEDULED WITHIN THE NEXT SIX MONTHS

The Helena is dedicated to the principle of equal housing opportunity. The federal Fair Housing Act requires that apartments in newer apartment communities have certain features of physical accessibility for people with disabilities.

This is to advise you that, as a result of a settlement in a case brought by the United States against the developers and designers of this apartment complex, we have agreed to modify, by varying degrees, the apartments at the Helena to provide greater accessibility for people with disabilities. Your unit or prospective unit is one of those that does not meet the accessibility requirements of the Fair Housing Act. We want you to know that you may request to have your apartment, or prospective apartment, modified now at no cost to you. The actual work will take no more than five days and, should you have to move out temporarily, we will pay reasonable relocation and housing expenses while the modifications are being made.

Depending on the particular features in your unit, the modifications may include:

- Modification of door entries and thresholds to ensure accessibility to persons in wheelchairs;
- Modification of bathrooms to ensure accessibility to persons in wheelchairs;
- Modification of kitchen appliances to ensure usability by persons with disabilities; or
- Lowering of electrical outlets.

While you do not have to request the modifications now, you should be aware that some of this work must be completed within the next six months, regardless of your intention to stay in the apartment for a longer time. A representative will be contacting you soon to review these modifications and to discuss a time frame within which these modifications may be made.

If you have any questions, please contact us at the management office.

**APPENDIX E**

**ADDITIONAL PROPERTY**

Name	Number of Buildings	Location
The Epic	1	125 West 31st Street, New York, NY 10001

**APPENDIX F**

**NOTICE TO PERSONS WHO MAY HAVE SUFFERED FROM INADEQUATE ACCESSIBLE FEATURES AT THE HELENA AND OTHER RENTAL BUILDINGS**

On \_\_\_\_\_, 2015, the United States District Court for the Southern District of New York entered a consent decree resolving a lawsuit brought by the United States Department of Justice against 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 Helena.

Under this consent decree, a person may be entitled to receive monetary relief if he or she:

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

The rental buildings relevant to this notice are: (i) The Helena, (ii) The Epic, (iii) 213-217 Front Street, (iv) 214-216 Front Street, and (v) 24-26 Peck Slip.

If you wish to make a claim for discrimination on the basis of disability, or if you have any information about persons who may have such a claim, 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 \_\_\_, 20\_\_.

**APPENDIX G**

**RELEASE FORM**

In consideration of the payment of the sum of \_\_\_\_\_ dollars (\$\_\_\_\_\_), pursuant to the Consent Decree entered in *United States of America v. The Helena Associates, LLC, et al.*, 14 Civ. 2698 (RA) (S.D.N.Y.), I hereby release The Helena Associates, LLC and The Durst Organization, Inc. (the "Developer Defendants") from any and all liability for any claims, legal or equitable, I may have against them arising out of the issues alleged in the above-styled action.

I fully acknowledge and agree that this release of the Developer Defendants shall be binding on my heirs, representatives, executors, successors, administrators, and assigns.

I hereby acknowledge that I have read and understand this release and have executed it voluntarily and with full knowledge of its legal consequences.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print name)

\_\_\_\_\_  
(Date)

APPENDIX H

ACKNOWLEDGMENT OF RECEIPT OF CONSENT ORDER

I \_\_\_\_\_, am an employee of \_\_\_\_\_ and my duties include \_\_\_\_\_. I have received and read a copy of the Consent Decree in *United States of America v. The Durst Organization Inc., et al.*, 14 Civ. 2698 (RA) (S.D.N.Y.), and have been given instruction on (1) the terms of this Consent Decree, (2) the requirements of the Fair Housing Act, particularly related to the Act's design and construction requirements, and (3) my responsibilities and obligations under the Consent Decree and the Fair Housing Act. I have had all of my questions concerning the Consent Decree answered to my satisfaction.

\_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Employee Signature

**APPENDIX I**

**CERTIFICATION OF FAIR HOUSING TRAINING**

On \_\_\_\_\_, I attended training on the federal Fair Housing Act, including its requirements concerning physical accessibility for persons with disabilities. I was also instructed as to the rental policies and procedures, including the nondiscrimination, complaint, and reasonable accommodation policies of the Fair Housing Act. I have had all of my question concerning the Fair Housing Act answered to my satisfaction.

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Date



### **ACCESSIBILITY MODIFICATION RIDER**

ADDITIONAL CLAUSES ATTACHED AND FORMING A PART OF THE LEASE DATED \_\_\_\_\_ BETWEEN \_\_\_\_\_ (LANDLORD) AND \_\_\_\_\_ (TENANT) REGARDING APARTMENT \_\_\_\_ IN THE PREMISES LOCATED AT 601 WEST 57th STREET, NEW YORK, NEW YORK, (THE "BUILDING"). IN THE EVENT OF ANY INCONSISTENCY BETWEEN THE PROVISIONS OF THIS RIDER AND THE PROVISIONS OF THE LEASE TO WHICH THIS RIDER IS ANNEXED, THE PROVISIONS OF THIS RIDER SHALL GOVERN AND BE BINDING. THE PROVISIONS OF THIS RIDER SHALL BE CONSTRUED TO BE IN ADDITION TO AND NOT IN LIMITATION OF THE RIGHTS AND OBLIGATIONS OF THE LANDLORD AND THE TENANT.

1. TENANT acknowledges that he/she has been advised that TENANT may request that LANDLORD install in the apartment which is the subject of this lease any or all of the "accessibility modifications" set forth below.
2. LANDLORD acknowledges and agrees that within ten (10) days of receiving a written request for installation of any or all of the items set forth below from the TENANT, made at any time during the term of the LEASE, LANDLORD shall install the requested items in the Apartment without charge to the tenant and without any increase in the legal rent.
3. LANDLORD and TENANT agree that in the event any item is installed at TENANT'S request, the item(s) shall thereafter remain the property of the LANDLORD and must be properly maintained and returned to the LANDLORD at the end of the lease in the same condition as originally provided, except for normal wear and tear.

#### **LIST OF ACCESSIBILITY MODIFICATIONS:**

- a. **Clear Width of Doors.** For any doors with a clear width opening of less than thirty-four inches in width, Landlord will install swing-away hinges to provide additional two inches (2") of clearance.
- b. **Exterior Side of Terrace Doors:** In instances where there is a level change greater than one-quarter inch (1/4"), unbeveled, or one-half inch (1/2"), beveled at a maximum ratio of 1:2, on the exterior side of a terrace door, Landlord will install a lift, or a ramp with a 1:12 slope.
- c. **Interior Side of Terrace Doors:** Where a level change of greater than level change greater than one-quarter inch (1/4"), unbeveled, or one-half inch (1/2"), beveled at a maximum ratio of 1:2, Landlord will reduce the level change to one-half inch (1/4") with a 1:2 bevel, or, if infeasible, install a ramp with 1:12 slope.
- d. **Thermostat and Radiator Controls.** Where radiator and/or thermostat controls are located less than fifteen inches (15") or more than forty-eight inches (48") above the finished floor, Landlord will provide wireless controls for each item affected.
- e. **Outlet Location.** Landlord will provide wall mounted power strips for outlets that are located:
  - i. Less than fifteen inches (15") or more than forty-eight inches (48") above the finished floor, if obstructed and intended for a forward approach;
  - ii. Less than fifteen inches (15") or more than forty-six inches (46") above the finished floor, if obstructed and intended for a sideways approach;

- iii. Above a kitchen countertop, but less than twelve inches (12") from a corner where the kitchen countertop meets the wall; and/or
- iv. Above a kitchen countertop, but less than twelve inches (12") from an adjacent appliance.
- f. **Bathroom Grab Bars.** Landlord will install grab bars. For bathrooms with a rear banjo above the toilet, Landlord will remove banjo countertops and replace with countertops that do not obstruct the grab bar location.
- g. **Clear Floor Space at Appliances.** In kitchens where there is less than forty inches (40") minimum of clear floor space between opposing base cabinets, countertops, appliances and/or walls, Landlord will provide forty inch (40") minimum width by replacing the existing appliances with low-profile appliances, and/or adjusting the electric or gas hookup at the range and push back the range.
- h. **Range and Kitchen Sink Centerline.** Where the kitchen sink and/or range are located less than twenty four inches (24") from an adjacent, non-removable base cabinet, Landlord will either swap the range and the adjacent cabinet to increase centerline, or will remove base cabinetry to increase centerline.
- i. **Bathroom Clear Floor Space.** Where less than thirty inches (30") by forty-eight inches (48") of clear floor space is provided beyond the swing of a bathroom doorway, Landlord will reverse the swing of the door to swing outward.
- j. **Bathroom Lavatory Base Cabinets.** Landlord will create a twenty-four inch (24") minimum centerline from the adjacent bathtub by removing base cabinets in all **bathrooms, covering the pipes, and finishing the floor and wall below the sink.**
- k. **Toilet Centerline.** Where the centerline of a toilet is less than sixteen inches (16") from an adjacent side wall, Landlord will install an offset flange to move the toilet as close to sixteen inches (16") from the sidewall as the flange will permit. Where the toilet centerline is greater than eighteen inches (18") from the adjacent side wall, Landlord will install ledger strips to reduce the centerline to eighteen inches (18").

LANDLORD

TENANT

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

By: Dated: \_\_\_\_\_