

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA,)	
)	CIVIL ACTION No. 12-2011
Plaintiff,)	SECTION F
)	JUDGE MARTIN L.C. FELDMAN
v.)	
)	MAGISTRATE 3
THE CITY OF NEW ORLEANS,)	MAG. DANIEL E. KNOWLES, III
LOUISIANA, and THE LOUISIANA)	
STATE BOND COMMISSION,)	
)	
Defendants.)	
_____)	

**SETTLEMENT AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND
THE LOUISIANA STATE BOND COMMISSION**

BACKGROUND

1. On August 6, 2012, the United States brought this case against the City of New Orleans (“City”) and the Louisiana State Bond Commission (“Bond Commission”) to enforce the Fair Housing Act (“FHA”), 42 U.S.C. § 3614, and Title II of the Americans with Disabilities Act (“ADA”), 42 U.S.C. § 12131, which, *inter alia*, prohibit governmental entities from discriminating against persons with disabilities in zoning and land use decisions. The United States’ Amended Complaint alleges that the City and the Bond Commission engaged in discrimination against persons with disabilities by taking a series of actions designed to block the Gulf Coast Housing Partnership (“GCHP”) and its non-profit partners from converting an abandoned nursing home into a 40-unit affordable housing development known as the “Esplanade.” Half the units of the Esplanade were intended to be generally available to persons with low income; half were intended as “permanent supportive housing” for homeless persons with mental and physical disabilities, including homeless veterans and emancipated youth.

2. In its Amended Complaint, the United States alleges, *inter alia*, that the Bond Commission discriminated by adopting in September 2009 a moratorium on all affordable housing in Orleans Parish funded through the Piggyback program, which prevented the development of the Esplanade. The United States alleges that the Bond Commission made exceptions to the moratorium for similarly situated housing projects but did not do so for the Esplanade. The United States alleges that the Bond Commission's actions caused substantial harm to GCHP, its not profit partners, to the prospective tenants with disabilities and to the interests of the United States by causing delay, increasing project costs, and jeopardizing federal funding for the Esplanade project.

3. The Bond Commission denies liability and denies that it has violated the FHA or the ADA in connection with these matters. The Bond Commission asserts that it does not, and did not in the case of the Esplanade project, evaluate projects solely on the population to be served. The Bond Commission further asserts that the moratorium was a legitimate and necessary action taken in response to the unprecedented circumstances that existed in the New Orleans area after Hurricane Katrina. The Bond Commission maintains that the moratorium was applied to all similarly-situated multi-family housing projects and that the intended residents of such projects played no part in either the adoption or implementation of the moratorium. The Bond Commission denies that any act or omission by it was the legal cause of any delay to the Esplanade project and further denies that it can be held liable in any circumstance for any alleged damages or civil penalties, as demanded by plaintiff.

4. On April 21, 2014, this Court entered an Order approving the terms of a settlement agreement between the United States and the City of New Orleans, to resolve the United States' claims against the City. ECF No. 127.

5. The United States and the Bond Commission desire to avoid costly and protracted litigation and have voluntarily agreed to resolve the United States' claims against the Bond Commission by entering into this Settlement Agreement. This Agreement is effective upon execution by a representative of each party, and approval and adoption as an Order of the Court. Accordingly, it is hereby ORDERED, ADJUDGED, and DECREED as follows:

I. GENERAL RELIEF

6. The Bond Commission, including its elected members, officers, and agents, shall fully comply with the FHA and ADA and refrain from discriminating in violation thereof, including in violation of 42 U.S.C §§ 3604(a), (b), § 3617 and § 12132.

7. The preceding paragraph shall apply prospectively to the Bond Commission and cover specifically enacting any moratorium or similar policy that applies to prevent consideration of affordable housing projects in New Orleans, or taking any other discriminatory action to preclude, unlawfully delay, deny or prevent consideration of the funding of affordable housing in New Orleans for persons with disabilities. This prohibition shall not preclude the Bond Commission from evaluating and taking actions on such projects according to all other relevant, non-discriminatory considerations and factors or authorize or require the Bond Commission to disregard such factors.

II. SPECIFIC RELIEF

8. On January 16, 2014, the Bond Commission lifted the moratorium and committed to placing the Esplanade project on its agenda for consideration of approval of its financing at its February 11, 2014 meeting. On February 11, the Bond Commission approved bond-financing for the Esplanade project. The Bond Commission will not take any action to obstruct, delay or prevent bond financing or any other funding for the Esplanade project. This prohibition shall

not preclude the Bond Commission from evaluating and taking actions on the Esplanade project according to all other relevant, non-discriminatory considerations and factors or authorize or require the Bond Commission to disregard such factors.

9. The Bond Commission shall not adopt any other moratoria or other policy that would prohibit, limit or restrict construction of the Esplanade project or that would apply in a discriminatory manner to prevent consideration of other affordable housing projects in New Orleans. This Agreement does not require or authorize the Bond Commission to depart from or disregard any and all relevant factors customarily considered in the evaluation of such requests in taking action on future proposed projects.

III. JURISDICTION AND SCOPE OF AGREEMENT AND COURT ORDER

10. The parties stipulate to, and the Court finds that, the Court has personal jurisdiction over the Defendant for purposes of this civil action, and subject matter jurisdiction over the United States' claims in this action pursuant to 28 U.S.C. §§ 1331 and 1345, and 42 U.S.C. §§ 3614(a) and 12133.

11. The provisions of this Agreement shall apply to the Bond Commission and its officers, agents, employees, consultants, members and staff.

12. After entry of this Agreement as an order of this Court, the case will be dismissed with prejudice as to the Bond Commission. In the event of a failure by any party to perform in a timely manner any act required by this Agreement and Order, or to comply with the Agreement and Order, any party may move this Court to enforce the Order consistent with applicable law.

IV. COSTS OF LITIGATION

13. The parties will bear their own costs and fees associated with this litigation.

V. TERMINATION OF LITIGATION HOLD

14. The United States and the Bond Commission agree that, as of the date of the entry of this Agreement of the Court, litigation is not “reasonably foreseeable” concerning the matters described above. To the extent that either party previously implemented a litigation hold to preserve documents, electronically stored information (ESI), or things related to the matters described above, the party is no longer required to maintain such litigation hold. Nothing in this paragraph relieves either party of any other obligations imposed by this Agreement.

IT IS SO ORDERED:

This ____ day of _____, 2014



United States District Judge Martin L. C. Feldman

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