

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

-against-

ALBANESE ORGANIZATION, INC. and its
subsidiaries and affiliates; NORTH END
ASSOCIATES, LLC; and SLCE
ARCHITECTS, LLP,

Defendants, and

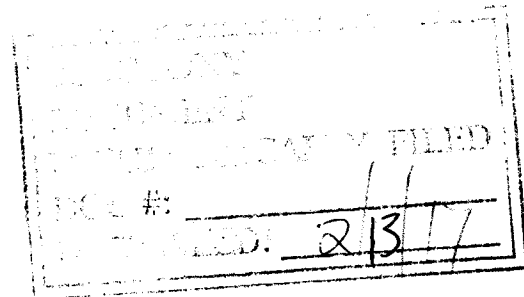
RIVER TERRACE ASSOCIATES, LLC;
CHELSEA ASSOCIATES, LLC;

Relief Defendants.

ECF CASE

CONSENT DECREE

17 Civ. 0358



INTRODUCTION

A. Background

This Consent Decree is entered into between the United States of America (the “United States”) and Albanese Organization, Inc., a New York Corporation (“Albanese”) and its subsidiaries and affiliates, including, North End Associates, LLC, River Terrace Associates, LLC, and Chelsea Associates, LLC.¹

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 January 18, 2017, alleges that the Defendants have engaged in a

¹ For purposes of this Consent Decree, an affiliate of Albanese means any entity that, directly or indirectly, is controlled by, or is under common control with, Albanese. For these purposes, control means the possession, directly or indirectly, of the power to direct or cause the direction of the management of any entity whether through the ownership of voting securities, by contract or otherwise.

pattern or practice of discrimination, and have denied rights to a group of persons in a manner raising an issue of general public importance by failing to design and/or construct The Verdesian, a residential apartment complex in Manhattan (“The Verdesian”), with the features of accessible and adaptive design and construction required by the FHA, 42 U.S.C. § 3604(f)(3)(C);

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

B. Defendants

WHEREAS, Albanese is the 100 percent owner of Albanese Development Corporation (“ADC”), which provided development management services to defendants North End Associates, LLC, River Terrace Associates, LLC, and Chelsea Associates, LLC, in connection with the design and construction of The Verdesian, The Solaire and The Vanguard Chelsea, and in that capacity, participated in the design and construction of those buildings;

WHEREAS, North End Associates, LLC, a New York limited liability company, owns The Verdesian, a residential apartment building located at 211 North End Avenue, New York, NY 10282, and in that capacity, designed and constructed The Verdesian;

WHEREAS, SLCE Architects, LLP, a New York limited liability partnership (the “Architect Defendant”), drew the architectural plans for The Verdesian and, in that capacity, designed and constructed The Verdesian. James Davidson and Luigi Russo, two partners of the Architect Defendant, were the architects of record for The Verdesian. The Architect Defendant is not a party to this Consent Decree;

C. Relief Defendants

WHEREAS, River Terrace Associates, LLC, a New York limited liability company, owns The Solaire, a residential apartment building located at 20 River Terrace, New York, NY 10282, and in that capacity, designed and constructed The Solaire;

WHEREAS, Chelsea Associates, LLC, a New York limited liability company, owns The Vanguard Chelsea, a residential apartment building located at 77 West 24th Street, New York, NY 10010, and in that capacity, designed and constructed The Vanguard Chelsea;

WHEREAS, North End Associates, LLC, together with Albanese, shall be referred to herein collectively as the “Verdesian Defendants”; River Terrace Associates, LLC, together with Albanese, shall be referred to herein collectively as the “Solaire Defendants”; Chelsea Associates, LLC, together with Albanese, shall be referred to herein collectively as the “Vanguard Chelsea Defendants”; and the defendants and relief defendants entering into this Consent Decree shall from time to time be referred to collectively as the “Developer Defendants”;

WHEREAS, the Developer Defendants enter this Consent Decree, among other reasons, to fully support the rights of persons with disabilities to have access to residential spaces in New York City;

D. 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” 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 “Accessible Design Requirements”);

E. Conditions at The Verdesian

WHEREAS, The Verdesian consists of a tower with elevator access and contains 253 dwelling units and public and common use areas, including a leasing office, laundry facilities, a terrace sun deck, a children’s play room, a fitness center, and storage areas for residents;

WHEREAS, the United States inspected The Verdesian on January 30 – February 2, 2012 and specifically identified, among other things, the following conditions at The Verdesian which the United States alleges failed to meet the Accessible Design Requirements:

- The intercom panel at the main entrance door is mounted too high to accommodate persons who use wheelchairs;
- An excessively high threshold at the rear entrance door interferes with accessibility for persons who use wheelchairs;
- A counter in the main lobby desk is too high to accommodate persons who use wheelchairs;
- An excessive running slope for the ramp to the leasing office interferes with accessibility for persons who use wheelchairs;
- The sign for the leasing office lacks raised-letter Braille for persons with visual impairments;
- The force required to operate the door to the lobby unisex bathroom interferes with accessibility for persons with certain disabilities;
- Excessively high thresholds at entrances to some of the individual units and at entrances to some of the individual unit terraces interfere with accessible routes for persons who use wheelchairs;

- There are insufficient clear opening widths of bedroom, bathroom, terrace, and closet doors in some of the individual units;
- The kitchens in some of the individual units lack sufficient width to accommodate persons who use wheelchairs;
- Kitchen sinks and ranges in some of the individual units lack sufficient clearance for persons who use wheelchairs;
- There is insufficient clear floor space within bathrooms in some of the individual units for maneuvering by persons who use wheelchairs;
- Toilets in bathrooms in some of the individual units are too close to the adjacent side wall to accommodate persons who use wheelchairs;
- The locations of thermostats, light switches, and kitchen outlets in some of the individual units make them inaccessible to persons who use wheelchairs;
- Hardware for operating trash chutes interferes with accessibility for persons with certain disabilities;
- Locations of the controls for washers and large-capacity dryers in the laundry room interfere with accessibility by persons who use wheelchairs;
- The force required to operate the door to the children's play room interferes with accessibility for persons with certain disabilities;
- The entrance door to the terrace sun deck lacks sufficient maneuvering clearance for persons who use wheelchairs;
- The uneven path to the seating area in the terrace sun deck interferes with the accessible route for persons who use wheelchairs; and

- An excessively steep threshold at the entrance to the fitness center interferes with accessibility by persons who use wheelchairs.

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 without further proceedings and without an evidentiary hearing or a trial;

WHEREAS, the parties' entry into this Consent Decree is not intended to and does not limit the Developer 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 related reason from any individual or entity involved in the design and construction of the property that is the subject of this Consent Decree, including but not limited to the Architect Defendant;

WHEREAS, the Verdesian Defendants agree to make modifications to The Verdesian as set forth herein and in the attached appendices; the Solaire Defendants agree to make such modifications to The Solaire as may be required pursuant to Section III of this Consent Decree; the Vanguard Chelsea Defendants agree to make such modifications to The Vanguard Chelsea as may be required pursuant to Section III of this Consent Decree;

WHEREAS, pursuant to Section III of this Consent Decree, the United States and the Developer Defendants have agreed to a process for identifying any violations of the FHA and the retrofits to be made with respect thereto at the Solaire and the Vanguard Chelsea; and

WHEREAS, the Developer Defendants agree to the entry of this Consent Decree;

It is hereby ORDERED, ADJUDGED, and DECREED:

I. GENERAL INJUNCTION

1. The Developer 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 VERDESIAN

2. The United States alleges that The Verdesian 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 Verdesian Defendants agree to address the conditions alleged to be violations of the FHA by making the modifications described in Appendices A and B.

A. Modifications to the Public and Common Use Areas

3. The Verdesian Defendants acknowledge that the public and common use areas of The Verdesian do not meet the requirements of any one of the ten safe harbors recognized by the Department of Housing & Urban Development for compliance with the FHA. The Verdesian Defendants agree to modify the public and common use areas of The Verdesian by taking the actions described herein and in Appendix A.

4. As soon as reasonably possible, but no later than six (6) months from the entry of this Consent Decree, the Verdesian Defendants shall finish the retrofits listed in Appendix A. The Verdesian Defendants shall make reasonable efforts to minimize inconvenience to residents in making such retrofits.

5. Unless the retrofits set forth in Appendix A have been completed prior to the signing of this Consent Decree, the Verdesian Defendants shall provide, within fifteen (15) days of the entry of this Consent Decree, written notices to all residents at The Verdesian stating that the retrofits required by this Consent Decree will be performed to the public and common use areas of The Verdesian. Such notice shall conform to Appendix C and may be delivered electronically or in hard copy.

6. Unless the retrofits set forth in Appendix A have been completed prior to the signing of this Consent Decree, the Verdesian 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 fifteen (15) 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 Verdesian Defendants acknowledge that the dwelling unit interiors of The Verdesian do not meet the requirements of any one of the ten safe harbors recognized by the Department of Housing & Urban Development for compliance with the FHA. The Verdesian Defendants agree to modify the dwelling unit interiors at The Verdesian by taking the actions described herein and in Appendix B.

8. As soon as reasonably possible, but no later than the expiration of this Consent Decree (unless otherwise specified in Appendix B), the Verdesian Defendants shall finish the retrofits listed in Appendix B. The Verdesian Defendants shall make reasonable efforts to minimize inconvenience to residents in making such retrofits.

9. Within thirty (30) days from the date of the entry of this Consent Decree, the Verdesian Defendants shall inform each resident or prospective resident that: (1) the United States has alleged that certain features of the resident's unit do not meet the accessible and adaptive design requirements of the FHA and that, to settle this lawsuit, the Verdesian Defendants agreed to retrofit certain features of the Covered Multifamily Dwelling units to make them more accessible; (2) the retrofits set forth in Appendix B will be provided within fourteen (14) days of any request but will, in any event, take place prior to the expiration of this Consent Decree (unless otherwise specified in Appendix B); and (3) 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.² The notice shall be substantially in the form of Appendix D and may be delivered electronically or in hard copy.

10. The Verdesian 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 fifteen (15) days after such distribution. Such certification shall include the names and addresses of the persons to whom the notices were distributed.

III. ADDITIONAL PROPERTIES

11. Albanese, through its wholly owned subsidiary, ADC, provided development management services to the Developer Defendants that designed and constructed for occupancy after March 13, 1991, certain other multifamily housing complexes, namely, ADC provided development management services to River Terrace Associates, LLC, which designed and constructed The Solaire, and to Chelsea Associates, LLC, which designed and constructed The Vanguard Chelsea. These properties shall be referred to as the “Additional Properties.” The provisions of this Section III apply separately to the Solaire Defendants and the Vanguard Chelsea Defendants. The Solaire Defendants shall be solely responsible for any retrofits required for the Solaire, and the Vanguard Chelsea Defendants shall be solely responsible for any retrofits required for the Vanguard Chelsea.

12. Within sixty (60) days from the entry of this Consent Decree, unless otherwise agreed to by the parties or ordered by the Court, the Solaire Defendants and the Vanguard Chelsea Defendants shall retain one or more licensed design professionals with expertise regarding the FHA and the Accessible Design Requirements (“Surveyor(s)”), approved by the United States, to survey each of the Additional Properties to determine what actions, if any, must be taken to bring these properties into

² 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. The scheduling of mandatory retrofits in individual units need not take into account the preferences and convenience of a prospective resident who has not yet signed a lease.

compliance with the accessibility requirements of the FHA. Any Surveyor retained must be either a professional proposed by the Solaire Defendants or the Vanguard Chelsea Defendants, as applicable, and in each case approved by the United States for use under this Consent Decree. For purposes of conducting surveys and reporting survey results as required by this part of the Consent Decree (*i.e.*, Section III), the Surveyor(s) shall measure and report compliance with the FHA by reference to one of the following standards (each a “Standard”), where such single Standard has been used in its entirety: (i) the Guidelines; (ii) a standard designated as an FHA safe harbor by the Department of Housing and Urban Development; or (iii) 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 Fair Housing Act. The Solaire Defendants and the Vanguard Chelsea Defendants each shall select a single Standard that shall be applied by the Surveyor(s) to The Solaire and to The Vanguard Chelsea, respectively. The Solaire Defendants and the Vanguard Chelsea Defendants may select a different Standard or the same Standard as each other for use in the surveys discussed in this paragraph.

13. The Surveyor(s) shall physically inspect (a) all common and public use areas within the Additional Properties, and, (b) at least one apartment of each floor plan type based on the Surveyor(s)’ review of the architectural or site plans, drawings, or blueprints.

14. The Solaire Defendants and the Vanguard Chelsea Defendants shall provide the Surveyor(s) with the best available information regarding the size and location of grab bar reinforcements at those properties. Such information shall include a physical inspection of one dwelling unit bathroom within each property to ascertain the presence and length of grab bar reinforcement, and a certification from a person involved with the construction of each property that similar reinforcements were installed in all other units of that property. Neither the Solaire Defendants, the Vanguard Chelsea Defendants nor the Surveyor(s) will be required to use destructive testing to comply with the requirements of this paragraph.

15. Within one hundred and twenty (120) days of the entry of this Consent Decree, unless otherwise agreed to by the parties or ordered by the Court, the Solaire Defendants and the Vanguard Chelsea Defendants shall provide the United States with a schedule of the surveys to be performed for each of the Additional Properties, together with a detailed description of the scope and methodology of each such survey, including how the Surveyor(s) will identify and survey representative unit types to ensure that potential FHA violations are identified in accordance with this Consent Decree, and with survey instructions developed by the Developer Defendants and approved by the United States. The United States shall have sixty (60) days to respond to the materials submitted by the Solaire Defendants or the Vanguard Chelsea Defendants pursuant to this paragraph. The parties agree that the in-unit conditions to be surveyed in the Additional Properties shall be those set forth on Appendix E to this Consent Decree. No survey may be commenced absent the approval of the United States as to the schedule, scope and methodology of the survey. Each survey shall include photographic documentation of any feature that does not comply with the requirements of the FHA.

16. Within twelve (12) months of entry of this Consent Decree, unless otherwise agreed to by the parties or ordered by the Court, the Solaire Defendants and the Vanguard Chelsea Defendants shall complete surveys, pursuant to paragraph 13 of this consent decree, of The Solaire and The Vanguard Chelsea, respectively. The United States, the Solaire Defendants and the Vanguard Chelsea Defendants shall have the right to accompany the Surveyor(s) on his or her survey of each property, and the Surveyor(s) shall provide the United States with reasonable notice of each survey, at least 30 days in advance of any survey. For each Additional Property, within 30 days following the completion of the physical survey of that Additional Property, unless otherwise agreed to by the parties or ordered by the Court, the Surveyor(s) shall provide to the United States, and to the Solaire Defendants and to the Vanguard Chelsea Defendants, a detailed written report setting out the scope and methodology of each

survey and all of the information set forth in paragraph 15 above, including details and photographic documentation regarding any features that do not comply with the selected Standard.

17. Within ninety (90) days of receipt of each report of the Surveyor(s), unless otherwise agreed to by the parties or ordered by the Court, the Solaire Defendants and the Vanguard Chelsea Defendants shall submit to the United States a proposal for performing the retrofits required to bring the common and public use areas and the individual dwelling units that were the subject of the survey(s) into compliance with the accessibility requirements of the FHA. In creating their proposals, the Solaire Defendants and the Vanguard Chelsea Defendants may consider various relevant factors including, but not limited to, providing design features that are accessible to persons with disabilities, the inconvenience to residents, and cost. The Solaire Defendants and the Vanguard Chelsea Defendants may detail their consideration of such factors in written submissions accompanying their proposals. Neither the Solaire Defendants nor the Vanguard Chelsea Defendants shall be deemed in any way to have admitted liability by proposing or making a retrofit to any condition in an Additional Property.

18. Within sixty (60) days of receipt of each retrofit proposal, unless otherwise agreed to by the parties or ordered by the Court, the United States shall notify the Solaire Defendants and the Vanguard Chelsea Defendants in writing of any objections to their proposals. If the United States provides no written objections to a proposal by the Solaire Defendants or by the Vanguard Chelsea Defendants, those defendants shall proceed with the modifications they specified. If the United States provides written objections to any proposal, the parties shall endeavor to expeditiously and in good faith resolve any objections, after which the Solaire Defendants or the Vanguard Chelsea Defendants shall, within thirty (30) days, unless otherwise agreed to by the parties or ordered by the Court, submit a revised retrofit proposal, to which the United States shall have thirty (30) days to provide written objections, unless otherwise agreed to by the parties or ordered by the Court; if there are no objections,

the Solaire Defendants or the Vanguard Chelsea Defendants shall proceed with the modifications they specified in the revised retrofit proposal.

19. 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.

20. Unless a longer period is agreed to by the United States or ordered by the Court, the Solaire Defendants and the Vanguard Chelsea Defendants shall make the retrofits to common or public use areas of the Additional Properties within nine (9) months of the United States' approval of a retrofit proposal. The Solaire Defendants and the Vanguard Chelsea Defendants shall make reasonable efforts to minimize inconvenience to residents of the Additional Properties in making such retrofits.

21. Unless a longer period is otherwise agreed to by the United States or ordered by the Court, the Solaire Defendants and the Vanguard Chelsea Defendants shall perform all retrofits to individual dwelling units no later than the earliest of (a) the expiration of the term of the consent decree; (b) prior to the re-occupancy of any vacated unit; or (c) fourteen (14) days from the written request of any resident or future resident of the unit. The Solaire Defendants and the Vanguard Chelsea Defendants shall make reasonable efforts to minimize inconvenience to residents of the Additional Properties in making such retrofits.

22. Within thirty (30) days of the United States' approval of a retrofit proposal, unless otherwise agreed to by the parties or ordered by the Court, the Solaire Defendants and the Vanguard Chelsea Defendants shall inform each resident or prospective resident in an individual dwelling unit that is subject to being retrofitted in any manner set forth in the applicable retrofit proposal, that (1) to settle a lawsuit, the Solaire Defendants and the Vanguard Chelsea Defendants have agreed to retrofit certain features of dwelling units at the Additional Properties; (2) the features of accessible and adaptive design can be retrofitted in the unit upon written request of the resident or prospective resident; (3) the retrofits

offered will be at no cost to the unit resident or prospective resident; and (4) 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(s) shall be substantially in the form of Appendix D, modified as appropriate to reflect the particular property at issue and the retrofits of the applicable retrofit proposal. In providing the notice required by this paragraph, the Solaire Defendants and the Vanguard Chelsea Defendants shall also provide to residents a document listing the retrofits to be completed in the particular units.

23. The Solaire Defendants and the Vanguard Chelsea Defendants shall certify to the United States in writing that the notices described in paragraph 22 pertaining to The Solaire and The Vanguard Chelsea 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.

24. The Solaire Defendants and the Vanguard Chelsea Defendants shall pay all costs associated with the surveys and modifications/retrofits to the Additional Properties, without prejudice to the ability of either to seek contribution or indemnification from other sources for such modifications/retrofits.

IV. PER DIEM FOR DISPLACEMENT

25. In the event that a resident of a unit within The Verdesian or the Additional Properties that is scheduled to undergo a modification is dislocated from his or her unit for more than a 14-hour consecutive period, the applicable Developer 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 – 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.

V. NO ADVERSE ACTION

26. Neither present nor future residents of The Verdesian or the Additional Properties may be charged any additional rent, deposit, fee, or other consideration for the dwelling units in which retrofits are or may be implemented because of completed, contemplated, or possible retrofits. The Developer Defendants shall take no adverse action against any present or future resident because such person requests to have his or her apartment, or prospective apartment, modified in accordance with this Consent Decree. Nothing in this paragraph shall restrict or impede any Developer Defendant's rights to continue, in a non-discriminatory manner, to lawfully establish and raise rents consistent with its business goals and obligations and with market conditions, including increasing rents after the expiration of a lease due to an increase in the market value of the unit, or as permitted by the rent stabilization laws, whether or not such an increase is on account of upgrades to such unit (other than retrofits required under this Consent Decree) done at or about the same time as retrofits required under this Consent Decree. The Developer Defendants assert that performance of the retrofits required by the terms of this Consent Decree does not constitute a diminution in services provided by the Developer Defendants at The Verdesian or the Additional Properties.

VI. NEUTRAL INSPECTOR

27. The Verdesian Defendants, the Solaire Defendants, and the Vanguard Chelsea Defendants each 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 Verdesian, and with the specifications in the approved retrofit proposals for The Solaire and The Vanguard Chelsea. The Inspector(s) shall have expertise in the design and construction requirements of the FHA.

28. If requested by any of the Developer Defendants, the Inspector(s) may review and comment upon the sufficiency of any proposed repairs in writing in advance of any repair by such defendant, but such review and comment shall be completed no later than fourteen (14) days after the request.

29. An initial inspection of The Verdesian shall take place within sixty (60) days of the completion of all of the retrofits set forth in Appendices A and B, or as soon thereafter as practicable. An initial inspection of The Solaire and The Vanguard Chelsea shall take place within sixty (60) days of the completion of the retrofits set forth in the applicable approved retrofit proposal, or as soon thereafter as practicable.

30. For each inspection, the Developer Defendants shall give the United States at least three weeks prior notice of the inspection and shall give the United States an opportunity to have its representative present for the inspection.³

31. 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 applicable Developer Defendant and 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.

32. If the inspection indicates that not all of the required retrofits have been made as specified in the applicable Appendices, or retrofit proposals, the applicable Developer Defendant 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 applicable Developer

³ 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 shall also be delivered to the undersigned Assistant United States Attorneys.

Defendant shall pay all of the Inspector(s)'s reasonable costs associated with the inspections of The Verdesian, The Solaire, and The Vanguard Chelsea, respectively, 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.

33. Nothing in this Consent Decree shall be read to relieve the Developer Defendants of the obligation to schedule inspections and/or correct deficiencies as set forth in this Section (including, but not limited to, inspection of the retrofits that the Developer Defendants are required to make prior to the expiration of the Consent Decree) even if such obligations extend beyond the duration of this Consent Decree.

VII. IMPEDIMENTS TO PERFORMANCE

34. In the event that any act or omission beyond the control of the Developer Defendants, and occurring without their fault or negligence, affects the performance of any requirement in Section II, III, or VI of the Consent Decree, the Developer Defendants and the United States shall endeavor, in good faith, to determine whether modifications to this Consent Decree are necessary and, if so, to seek jointly such modifications from the Court. In particular, if a resident or residents of The Verdesian, The Solaire, or The Vanguard Chelsea refuses to vacate a unit such that a retrofit required to be made under this Consent Decree may be made, the parties shall endeavor, in good faith, to reach agreement on a substitute unit in which a retrofit can be made. If such efforts are unsuccessful, any party may seek relief from the Court. Nothing herein shall be construed as requiring the Developer Defendants to bring a lawsuit against a resident who refuses to allow any of them to perform a retrofit to that resident's unit, as specified in Sections II or III of this Consent Decree; and nothing herein shall be construed as requiring the Developer Defendants to perform any act beyond the expiration of this Consent Decree except as specified in this paragraph, and in paragraphs 29 through 33 above.

VIII. TRANSFER OF INTEREST IN PROPERTIES

35. The sale or transfer of ownership, in whole or in part, of any Developer Defendant's interest(s) in the property owned by it shall not affect such Developer Defendant's continuing obligation to retrofit, and/or conduct or allow inspections or surveys of, such property, as specified in this Consent Decree, unless such Developer 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.

36. Should an owner of The Verdesian, the Solaire, or the Vanguard Chelsea decide to sell or transfer any ownership of such property, in whole or in part, or any portion thereof, prior to the completion of the retrofits specified in this Consent Decree's Appendices or agreed upon pursuant to Section III describing the retrofits for such property, such owner will, at least 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 the owner's 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.

IX. NON DISCRIMINATION IN OTHER DESIGN AND CONSTRUCTION

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

38. For each Covered Multifamily Dwelling that Albanese constructs during the term of this Consent Decree, Albanese 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. Albanese 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, Albanese shall arrange for the FHA Consultant to visit the building to identify any construction issues that may result in inaccessible conditions and recommend appropriate solutions.

39. The agreement or contract between Albanese 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, Albanese shall provide a copy of this Consent Decree to the FHA Consultant and secure a 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 F.

40. During the term of this Consent Decree, Albanese shall submit, on an annual basis, a certification to the counsel for the United States affirming that Albanese has 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 Albanese to provide advice and the identity (and affiliation, if applicable) of the FHA Consultant. Albanese shall provide this certification within fifteen (15) days of the end of each 12-month period from the entry of this Consent Decree.

41. In connection with any Covered Multifamily Dwellings intended to be developed, built, designed, and/or engineered in whole or in part, by Albanese or by any affiliate or director of Albanese, or any person or entity owning ten-percent (10%) or more of Albanese, Albanese agrees to maintain, and to provide to the United States upon request, the following information and statements with respect to each project in which Albanese, or such affiliate, director, or shareholder owns at least ten-percent interest (each a “Project”):

- the name and address of the Project;
- a description of the Project and the individual units;
- the name, address, and telephone number of the engineer(s) involved with the Project;
- a statement from the engineer 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, and certifying that he/she has reviewed the engineering documents for the Project and that the design specifications therein fully comply with the requirements of the FHA, and stating a Standard with which the design specifications comply;
- the name, address and telephone number of the architect(s) who are employed or retained by any Defendant and are involved with the Project;
- a statement from all architect(s) who are employed or retained by any 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.

42. For the duration of this Consent Decree, if the engineering documents or architectural plans referred to in paragraph 41 are revised, and the revisions could have any impact on whether the dwellings or complex complies with the FHA, Albanese shall obtain, maintain, and provide to the United States upon request, a statement from the engineer(s) or architect(s) who are employed or retained by any such Developer 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.

43. The Developer 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 notice, the United States will be permitted full access to such properties to inspect for compliance with such standards, rules, and laws.

X. PAYMENTS TO AGGRIEVED PERSONS

44. Within thirty (30) days of entry of this Consent Decree, the Developer Defendants shall deposit in an interest-bearing account the sum of ONE HUNDRED AND SEVENTY-FIVE THOUSAND DOLLARS (\$175,000) for the purpose of compensating any aggrieved persons who may have suffered from inadequate accessibility as a result of the Developer Defendants' discriminatory housing practices at The Verdesian, The Solaire, or The Vanguard Chelsea (as such persons who may be entitled to relief are described in Appendix G). This deposited money, plus any accrued interest, shall

be referred to as the "Initial Settlement Fund." The Developer Defendants shall be jointly and severally liable to the United States for making said deposit.

45. Within thirty (30) days of the entry of this Consent Decree, the Verdesian Defendants shall publish the Notice to Persons Who May Have Suffered From Inadequate Accessible Features at The Verdesian ("Notice") at Appendix G informing readers of the availability of compensatory funds. The Notice shall be no smaller than three columns by six inches and shall be published on three occasions in the New York Daily News; amNew York; and in the following publications of Straus

News: Our Town, Eastsider, West Side Spirit, Westsider, Chelsea News, Chelsea Clinton News, Our Town Downtown, and Downtowner. The three publication dates shall be separated from one another by twenty-one (21) days, and at least two of the publication dates shall be on a Sunday (or Saturday, if the newspaper is not published on Sunday).⁴ Within sixty (60) days of each publication of the Notice in a newspaper Albanese shall provide copies of the publication containing the Notice to the United States.

46. Within thirty (30) days of the entry of this Consent Decree, the Verdesian Defendants shall place on <http://www.theverdesian.com> a link to an electronic version of the Notice in an Adobe Acrobat Portable Document Format (“PDF”). The link should state “Notice to Potential Victims of Housing Discrimination,” 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 “Smarter Living,” “Floor Plans,” “Residences,” “Services & Amenities,” “Neighborhood,” “Gallery,” and “Contact” as they appeared on January 18, 2017.

47. Within sixty (60) days of the entry of this Consent Decree, the Solaire Defendants and the Vanguard Chelsea Defendants shall place on <http://www.thesolaire.com> and <http://www.vanguardchelsea.com>, respectively, a link to an electronic version of the Notice in a PDF. The link should state “Notice to Potential Victims of Housing Discrimination,” and should appear on the upper half of the website, in a font that is clearly visible, in a prominent font size.

48. Within sixty (60) days of the entry of this Consent Decree, the applicable Developer Defendant 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

⁴ Because amNew York is not published on either Saturday or Sunday, the Notice may be published on a weekday.

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
30-30 Northern Blvd., Suite 302
Long Island City, New York 11101;

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.

49. Within ninety (90) days of the entry of this Consent Decree, the Verdesian Defendants shall send, by first-class mail, postage pre-paid, a copy of the Notice to each identifiable past or present resident at the property owned by such Developer Defendant. For past residents, the Verdesian 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 such property. Within one hundred and twenty (120) days of entry of this Consent Decree, the Verdesian Defendants shall provide the United States with proof that the Notices have been sent.

50. Within ninety (90) days of the survey provided for by paragraph 13 of this Consent Decree, the Vanguard Chelsea Defendants and the Solaire Defendants shall send, by first-class mail, postage pre-paid, a copy of the Notice to each identifiable past or present resident at the property owned by the Vanguard Chelsea Defendants or the Solaire Defendants. For past residents, the Vanguard Chelsea Defendants and the Solaire 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 such property. Within one hundred and twenty (120) days of the survey provided for by paragraph 16 of this Consent Decree, the Vanguard Chelsea Defendants and the Solaire Defendants shall provide the United States with proof that the Notices have been sent.

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

52. The Developer Defendants shall permit the United States, upon reasonable notice, to review any non-privileged records that may reasonably facilitate its investigations to locate allegedly aggrieved persons and make determinations regarding their potential claims. In addition, the Developer Defendants shall identify to the United States any allegedly aggrieved persons or any past, present, or prospective residents of The Verdesian, The Solaire, or The Vanguard Chelsea, respectively, who have disabilities or regular guests with disabilities, to the extent that the Developer Defendants, or their employees or agents at The Verdesian, The Solaire, or The Vanguard Chelsea, respectively, possess the information required to make such identifications.

53. 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. No later than one hundred and twenty (120) days prior to the expiration of the Consent Decree, the United States will provide the Developer Defendants a statement in writing of each of its determinations, including a statement of the factual basis of, and the legal authority (under the FHA and case law interpreting it) for, any such determination, 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 the aggrieved persons at The Verdesian and the Additional Properties, 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 THOUSAND DOLLARS (\$500,000). ~~The Developer~~

Defendants shall be jointly and severally liable to the United States for paying such
54. If the Developer Defendants dispute the amount of a payment to an aggrieved person, the *award.*

Defendants shall, within 30 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 Developer Defendants and shall submit, within 20 days of receiving a written objection, its reconsidered determination (a "Reconsidered Determination") to the Developer Defendants, in writing, setting forth the aggrieved person and the amount that the aggrieved person shall be paid. If the Developer Defendants dispute the Reconsidered Determination, the Developer Defendants may file within 20 days of receiving a Reconsidered Determination an objection with the Court, which may sustain or overrule the objection.

55. The Developer Defendants shall, no later than 30 days after receiving a Determination to which no objection has been made, 15 days after receiving a Reconsidered Determination to which no objection has been filed with the Court, or 15 days after any decision by the Court, whichever is earliest, deliver to the United States checks payable to aggrieved persons in the amounts identified by the United States or the Court, as applicable. In no event shall the aggregate of all such checks exceed the amount

of five hundred thousand dollars (\$500,000), including accrued interest. No aggrieved person shall be paid until he/she has executed and delivered to the United States the release at Appendix H. The United States shall deliver a copy of the executed release to the applicable Developer Defendant.

56. 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 X of this Consent Decree.

57. 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, then, no later than the earlier of (a) when the United States determines that no further aggrieved persons will be identified, or (b) the expiration of this Consent Decree, any remainder in the Initial Settlement Fund shall be, subject to the approval of the Court, distributed to a qualified organization(s) for the purpose of conducting fair housing enforcement-related activities in New York City (the "Qualified Organization(s)"). Before selecting the Qualified Organization(s), the Developer Defendants will obtain a proposal from the organization(s) on how the funds will be used consistent with the above-stated purposes, submit such proposal to the United States, and consult with and obtain the non-objection of the United States. The Qualified Organization(s) selected by the Developer Defendants must not be related to the Developer Defendants or the Developer Defendants' subsidiaries or affiliates. The United States may request modification of the proposal before not objecting to the Developer Defendants' selection of the Qualified Organization(s). Within fifteen (15) days of the United States's non-objection to the Qualified Organization(s) selected by the Developer Defendants, the parties shall move the Court to order the distribution of the amount remaining in the Initial Settlement Fund. The parties shall provide the Court with information regarding how the proposed Qualified Organization(s) meet the requirements set forth in this paragraph. The Developer Defendants shall distribute the funds in a manner directed by the Court after the United States

determines that no further aggrieved persons will be identified. The Developer Defendants shall also require each Qualified Organization receiving funds to submit to the Developer Defendants and the United States a report within one year of receipt of funds, and every year thereafter until the funds are exhausted, detailing the manner in which the funds are being utilized for the purposes identified in this paragraph. In the event that any Qualified Organization does not provide such a report, the Developer Defendants shall require that the funds be returned for redistribution to other organization(s) to be used for the purposes set forth in this paragraph.

XI. CIVIL PENALTY

58. Within thirty (30) days of the date of the entry of this Consent Decree, the Developer Defendants shall pay a civil penalty of FORTY FIVE THOUSAND DOLLARS (\$45,000) pursuant to 42 U.S.C. § 3614(d)(1)(C) to vindicate the public interest. The Developer Defendants shall pay said

sum by submitting a check made payable to the "United States of America" to the United States, and shall be jointly and severally liable to the United States for payment of said sum.

XII. EDUCATIONAL PROGRAM

59. Within sixty (60) days of the entry of this Consent Decree, the Developer Defendants shall provide a copy of this Consent Decree to their agents and employees involved in the design or construction of The Verdesian 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 F.

60. During the term of this Consent Decree, any new agent or supervisor of a Developer Defendant who will have any supervisory authority in the design or construction of Covered Multifamily Dwellings shall, within sixty (60) days after the date he or she commences such agency or employment relationship with any Defendant, be given a copy of this Consent Decree by such Defendant, and such 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 F.

61. Within sixty (60) days of the entry of this Consent Decree, the Developer Defendants shall provide a copy of this Consent Decree to all their agents and employees who will be directly involved in rental of dwelling units at The Verdesian or the Additional Properties, and/or the provision of services to residents at The Verdesian 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 F.

62. During the term of this Consent Decree any new agent or supervisor of the Developer Defendants who will be directly involved in the renting of dwelling units at The Verdesian or the Additional Properties, and/or the provision of services to residents at The Verdesian or the Additional Properties shall, within sixty (60) days after the date he or she commences an agency or employment relationship with any of the Developer Defendants, be given a copy of this Consent Decree by such Developer Defendant, and such Developer 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 F.

63. In lieu of providing individuals or entities with copies of the Consent Decree as required by the preceding paragraphs of Section XII, a 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. Copies of the Consent Decree (or approved summary) may be provided in hard copy, electronically, or by a link to a website where a copy of the Consent Decree (or approved summary) may be found.

64. The Developer 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 Developer 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.

65. Within one hundred and twenty (120) days of the date of entry of this Consent Decree, the Developer 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.⁵ The training shall be conducted by a qualified third-party individual, not associated with any Defendant or its counsel, and approved by the Department of Justice; and any expenses associated with this training shall be paid by the Developer Defendants. The Developer Defendants shall provide to the United States, 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 Developer Defendants shall provide to the United States, thirty (30) days after the training, certifications executed by all Defendants and covered employees and agents confirming their attendance, in a form substantially equivalent to Appendix I. The United States may waive the training requirements in the

⁵ 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.

foregoing paragraph for such employees or agents who received training from a qualified trainer on the design and construction requirements or the accessibility requirements of the FHA in the six months prior to the entry of this Consent Decree upon the provision of executed certifications from each such employee or agent.

XIII. NOTICE OF DEFENDANTS' NON-DISCRIMINATION POLICY

66. Within thirty (30) days of the entry of this Consent Decree, the Developer Defendants shall post and prominently display in the sales or rental offices of all Covered Multi-family Dwellings owned or operated by them a sign no smaller than 10 by 14 inches indicating that all dwellings are available for rental on a non-discriminatory basis. A poster that comports with 24 C.F.R. Part 110 will satisfy this requirement.

67. 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 buildings or any new building that any Developer Defendant may develop or construct, the Developer Defendant shall place, in a conspicuous location, a statement that the dwelling units include features for persons with disabilities required by the FHA.

68. One hundred and eighty (180) days after the date of entry of this Consent Decree, the Developer Defendants shall submit to the United States an initial report regarding the signed statements of the Developer Defendants' employees and agents who have completed the training program specified in paragraph 65 of this Consent Decree. Thereafter, during the term of this Consent Decree, the Developer 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 59 and 61 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 60 days prior to the third anniversary.

69. For the duration of this Consent Decree, the Developer 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 Developer Defendants working at or for any such property, alleging discrimination on the basis of disability in housing. Upon reasonable notice, the Developer Defendants shall also provide the United States all non-privileged information it may request concerning any such complaint. The Developer Defendants shall also advise counsel for the United States, in writing, within fifteen (15) days of the resolution of any complaint.

70. For the term of this Consent Decree, the Developer Defendants are required to preserve all records related to this Consent Decree for The Verdesian or the Additional Properties 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 Developer Defendants, representatives of the United States shall be permitted to inspect and copy any non-privileged records of the Developer Defendants or inspect any developments or residential dwelling units under the Developer 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 Developer Defendants and residents from such inspections.

XIV. LOW-INCOME HOUSING TAX CREDIT PROGRAM COMPLIANCE

71. Defendants are hereby notified that, in the event that the Developer 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).

**XV. DURATION OF CONSENT DECREE AND
TERMINATION OF LEGAL ACTION**

72. 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 Developer 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). A violation by the Verdesian Defendants shall not be attributed to or constitute a violation by the Solaire Defendants or the Vanguard Chelsea Defendants; a violation by the Solaire Defendants shall not be attributed to or constitute a violation by the Verdesian Defendants or the Vanguard Chelsea Defendants; and a violation by the Vanguard Chelsea Defendants shall not be attributed to or constitute a violation by the Verdesian Defendants or the Solaire Defendants.

73. The Complaint in this action is hereby dismissed as to the Developer Defendants, during the term of the Consent Decree, without prejudice to its reinstatement in accordance with the next paragraph. If the Complaint is not reinstated in accordance with the next paragraph, after the expiration of the term of the Consent Decree the case will be deemed dismissed with prejudice.

74. The Complaint in this action shall be reinstated as to the Developer Defendants at any time during the term of this Consent Decree if the Court determines that the Developer Defendants have failed to perform, in a timely manner, any act required by this Consent Decree or have otherwise failed to act in conformity with any provision of this Consent Decree.

75. 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. The duration of the Consent Decree may also be extended by the mutual written agreement of the United States and the Developer Defendants.

76. The United States and the Developer 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 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.

XVI. TIME FOR PERFORMANCE

77. 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 Defendants.

XVII. COSTS OF LITIGATION

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

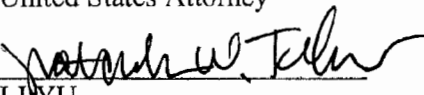
79. The Parties understand and agree that this Consent Decree contains the entire agreement between them, and that statements, representations, promises, agreements, or negotiation, oral or otherwise, between the Parties or their counsel that are not included herein shall be of no force or effect.

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

Dated: New York, New York
January 18, 2017

For the United States:

PREET BHARARA
United States Attorney

By: 
LI YU

JESSICA JEAN HU
JACOB LILLYWHITE
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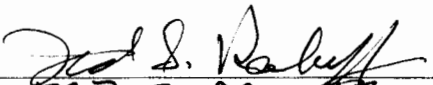
For Developer Defendants:

SPEARS & IMES LLP

By: 
LINDA IMES

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limes@spearsimes.com
jhendon@spearsimes.com

SO ORDERED:


HON. JED S. RAKOFF
UNITED STATES DISTRICT JUDGE

2-12-17

APPENDIX A**PUBLIC AND COMMON USE AREAS**

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**VALET PARKING VESTIBULE**

ELEMENT	CONDITION	AGREED UPON RETROFIT
1) Sign	No raised letters.	Will provide raised letters and Braille.

REAR ENTRANCE TO PUBLIC PARK

ELEMENT	CONDITION	AGREED UPON RETROFIT
2) Door threshold	Level is 1 $\frac{5}{8}$ " high to base of the threshold.	Will submit a written request to Battery Park, the owner of the area immediately outside the entrance, to raise ground elevation outside entrance. Will provide signage noting alternative accessible entrance.

BUILDING ENTRANCE DOORS

ELEMENT	CONDITION	AGREED UPON RETROFIT
3) Intercom panel	55" to 56 $\frac{1}{2}$ " above finished floor ("AFF").	Will lower to 54" max. AFF for side reach; 48" max. AFF for forward reach.

LEASING OFFICE

	ELEMENT	CONDITION	AGREED UPON RETROFIT
4)	Entrance door - sign	No raised letters.	Will provide raised letters and Braille.
5)	Ramp near leasing office to Murray St.	Running slope 7.3% to 11.3%	Will reduce running slope to 8.33% max.

UNISEX TOILET ROOM

	ELEMENT	CONDITION	AGREED UPON RETROFIT
6)	Entrance door	Opening force of 8 lbs.	Will decrease opening force to 5 lbs. max
7)	Coat hook	65½" AFF	Will lower to 54" max. AFF for side reach; 48" max. AFF for forward reach

PLAY ROOM

	ELEMENT	CONDITION	AGREED UPON RETROFIT
8)	Entrance door	Opening force of 8 lbs.	Will decrease opening force to 5 lbs. max.
9)	Paper towel dispenser	56" to 58" AFF.	Will lower to 54" max. AFF for side reach; 48" max. AFF for forward reach.
10)	Sanitary wipe dispenser	58½" AFF.	Will lower to 54" max. AFF for side reach; 48" max. AFF for forward reach.
11)	Telephone	57½" AFF to highest operable part.	Will replace with intercom box at 54" max. AFF for side reach; 48" max. AFF for forward reach.

LAUNDRY ROOM

	ELEMENT	CONDITION	AGREED UPON RETROFIT
12)	Large capacity dryers	65" AFF to the highest operable part.	Will replace with ADA-compliant large-capacity dryers.
13)	Washers	Reach depth greater than 24" to controls.	Will replace standard washers with ADA-compliant washers.

FITNESS CENTER

	ELEMENT	CONDITION	AGREED UPON RETROFIT
14)	Entrance door	Opening force of 9 lbs.	Will decrease opening force to 5 lbs. max.
15)	Entrance door -- threshold	Running slope 16.9%.	Will reduce running slope to 8.33% max.
16)	Entrance door to aerobics room -- sign	No raised letters.	Will provide raised letters and Braille.

TERRACE -- 17th FLOOR

	ELEMENT	CONDITION	AGREED UPON RETROFIT
17)	Door to the terrace -- maneuvering clearance	1¼" pull side latch clearance.	Will provide automatic door opener.
18)	Pavers at tables and seating areas	Gaps in pavers greater than ½" wide	Will reduce gaps to 1/2" wide max.

TRASH CHUTE ROOMS

	ELEMENT	CONDITION	AGREED UPON RETROFIT
19)	Hanger rods	64" AFF.	Will lower to 54" max. AFF for side reach; 48" max. AFF for forward reach.
20)	Chute door hardware	Requires twisting of the wrist to operate.	Will notify tenants of the option of leaving garbage in the trash chute room on their floor, and notices of this option will be posted on bulletin boards.

**APPENDIX B
UNIT RETROFITS AT THE VERDESAN**

**ALL RETROFITS IDENTIFIED ON THIS APPENDIX B SHALL BE COMPLETED WITHIN
THE THREE-YEAR TERM OF THE CONSENT DECREE.**

**CLEARING OPEN WIDTH OF DOORS
FAIR HOUSING ACCESSIBILITY GUIDELINES REQUIREMENT 3, SEC. (2)**

UNIT(S)	CONDITION	AGREED UPON RETROFIT
1) All units on all floors	Clear width typically is only 31" to 31¼"; door leaf only 33½" wide	Will increase clear width to 31¾" min, with the use of swing-clear hinges or otherwise, upon the request of a tenant or prospective tenant.

**UNIT ENTRANCE DOOR THRESHOLD
FAIR HOUSING ACCESSIBILITY GUIDELINES REQUIREMENT 4, SEC. (4)**

UNIT(S)	CONDITION	AGREED UPON RETROFIT
2) All units on all floors	Level change at entrance door is up to 1⅝" high, on the interior 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 THRESHOLD – EXTERIOR SIDE
FAIR HOUSING ACCESSIBILITY GUIDELINES REQUIREMENT 4, SEC. (4)**

UNIT(S)	CONDITION	AGREED UPON RETROFIT
3) 17th floor units, except 17D (17F contains two terrace doors)	Level change at terrace door is 15" to 16" (two steps up to terrace door)	Will install a lift or compliant ramp upon the request of a tenant or prospective tenant.

LIGHT SWITCHES

FAIR HOUSING ACCESSIBILITY GUIDELINES REQUIREMENT 5

UNIT(S)	CONDITION	AGREED UPON RETROFIT
4) All locations	48½" to 50" AFF	Will provide and install flat switches that are 48" max. AFF measured to the highest operable part upon request of a tenant or prospective tenant.

KITCHEN OUTLETS

FAIR HOUSING ACCESSIBILITY GUIDELINES REQUIREMENT 5

UNIT(S)	CONDITION	AGREED UPON RETROFIT
5) 3A-26A, 17B-26B, 17C-26C, 18D-25D, 17E-26E, 3F-16F, 4G-16G, 3K-16K, 3L-16L, 3M-16M, 4P-16P	Kitchen outlets are less than 12" from the side wall or appliance, measured to the centerline of the outlets	Will move outlets, install new outlets, or provide wall mounted power strips such that the distance from the side wall or appliance measured to the centerline of outlets is 12" min.
6) 17E-26E, 3F, 17F, 3H-16H, 3J-16J, 4P-16P	Kitchen outlets are less than 36" from the corner, measured to the centerline of the outlets	Will move outlets, install new outlets, or provide wall mounted power strips such that the distance from the corner measured to the centerline of outlets is 36" min.
7) 17A-26A	Kitchen outlets are higher than 46" AFF, measured to the centerline of the highest receptacle	Will move outlets, install new outlets, or provide wall mounted power strips such that outlets are at or below 46" max. AFF, measured to the centerline of the highest receptacle.

LIVING ROOM OUTLETS

FAIR HOUSING ACCESSIBILITY GUIDELINES REQUIREMENT 5

UNIT(S)	CONDITION	AGREED UPON RETROFIT
8) 17F, 4N-16N	Outlets on living room wall are less than 15" AFF	Will move outlets, install new outlets, or provide wall mounted power strips such that the outlets are at or above 15" AFF, measured to the centerline of the lowest outlet.

BEDROOM OUTLETS

FAIR HOUSING ACCESSIBILITY GUIDELINES REQUIREMENT 5

	UNIT(S)	CONDITION	AGREED UPON RETROFIT
9)	17F (master bedroom)	Outlets (at the closet door and at the window wall) are less than 15" AFF	For outlet at closet door only, will move outlet, install a new outlet, or provide a wall mounted power strip such that the outlets are at or above 15" AFF, measured to the centerline of the lowest outlet.

KITCHEN SINKS PROVIDE INSUFFICIENT CLEARANCE

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

	UNIT(S)	CONDITION	AGREED UPON RETROFIT
10)	3F, 3H-16H, 3J-16J, 3P-16P, 17E-26E	Centerlines less than 24" from adjacent base cabinet, with no removable base cabinet.	Within 24 hours of a request from a tenant or prospective tenant, will remove doors and cut away floor of base cabinet, as well as finish the wall and floor beneath the sink.

KITCHEN RANGES PROVIDE INSUFFICIENT CLEARANCE

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

	UNIT(S)	CONDITION	AGREED UPON RETROFIT
11)	17A-26A, 17C-26C, 3D-26D, 3E-16E, 20D-25D, 4F-16F, 4G-16G, 3M-16M, 3N-16N, 4Q-16Q	Countertop corner location – centerlines are 15" to 19" from the side wall	<p>In 12 units, will either (1) swap the entire existing cabinet and the range, or (2) divide the allotted cabinet space in two and place the range between either two smaller cabinets or one smaller cabinet and a filler sufficient to position the range as required.</p> <p>For remaining units, will either (1) swap the entire existing cabinet and the range, or (2) divide the allotted cabinet space in two and place the range between either two smaller cabinets or one smaller cabinet and a filler sufficient to position the range as required, at the request of a tenant or prospective tenant.</p>

KITCHEN CLEARANCE

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

	UNIT(S)	CONDITION	AGREED UPON RETROFIT
12)	17A-26A, 17C-26C, 3D-26D, 3E-16E, 4F-16F, 3K-16K, 3M-16M, 3N-16N, 4Q-16Q	Less than 40" min. width at the refrigerator	In units 17D-26D, 3M-16M, and 4Q-16Q, and in an additional 15 units, will install a low-profile refrigerator. In remaining units, will install a low-profile refrigerator upon the request of a tenant or prospective tenant.

KITCHEN CLEARANCE

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

	UNIT(S)	CONDITION	AGREED UPON RETROFIT
13)	17F, 3L-16L, 4P-16P	Less than 60" between base cabinets and/or less than 60" at the refrigerator	Within 24 hours of a request from a tenant or prospective tenant, will remove doors and cut away floor of base cabinet, as well as finish the wall and floor beneath the sink.

BATHROOM CLEAR FLOOR SPACE

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

	UNIT(S)	CONDITION	AGREED UPON RETROFIT
14)	3A (master bathroom), 4A-26A, 3B-16B, 17B-26B (master bathrooms), 3C-16C (master and hall bathrooms), 17C-26C (hall bathrooms), 3D-16D (master and hall bathrooms), 17D-26D, 3E-16E, 4F-16F, 17F (master and hall bathrooms), 18F-26F (master bathrooms), 4G-16G (master and hall bathrooms), 3H-16H, 3J-16J, 3K-16K (master and hall bathrooms), 3L-16L (master and hall bathrooms), 3M-16M, 4P-16P, 4Q-16Q	Clear floor space beyond door swing is less than 30" wide and/or less than 48" long	In units 17D-26D, 3M-16M, and 4Q-16Q, and in an additional 15 units, will reverse the door swing. For the remaining units, will reverse the door swing upon the request of a tenant or prospective tenant.

BATHROOM LAVATORIES

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

	UNIT(S)	CONDITION	AGREED UPON RETROFIT
15)	3A (master and hall bathrooms), 4A-26A, 3B-16B, 17B-26B (master and hall bathrooms), 3C-26C (master and hall bathrooms), 3D-16D (master and hall bathrooms), 17D-26D, 3E-16E, 17E-26E (master and hall bathrooms), 3F-16F, 17F-26F (master and hall bathrooms), 4G-16G (master and hall bathrooms), 3H-16H, 3J-16J, 3K-16K (master and hall bathrooms), 3L-16L (master and hall bathrooms), 3M-16M, 3N-16N, 3P-16P, 4Q-16Q	Centerlines are less than 24" from the bathtub or side wall due to pedestal base, which obstructs knee and toe clearance required for a forward approach	Within 24 hours of a request from a tenant or prospective tenant, will remove pedestal from under the sink, insulating or covering all piping, including drainage piping and water supply piping, and installing supports sufficient to sustain a force of 250 pounds applied at the front of the sink.

BATHROOM TOILETS

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

	UNIT(S)	CONDITION	AGREED UPON RETROFIT
16)	All unit bathrooms except those in 17A-26A, 4N-16N	Centerline of toilet is less than 18" from the side wall	Will install offset flanges to move toilets to between 16-18" in unit 17F upon request of a tenant or prospective tenant.

APPENDIX C

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

To Our Residents and Prospective Residents:

Federal law requires that the public and common use areas at The Verdesian 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 Verdesian or the United States Attorney's Office, Southern District of New York, at (212) 637-0840.

Sincerely,
The Verdesian

APPENDIX D

NOTICE TO RESIDENTS OR PROSPECTIVE RESIDENTS OF RETROFITS FOR THE VERDESIAN, WHICH MUST BE SCHEDULED WITHIN THE NEXT THREE YEARS

The Verdesian 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 Verdesian 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
- Modification 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 three years**, 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

LIST OF CONDITIONS FOR INSPECTION OF ADDITIONAL PROPERTIES

- 1) Door clear opening widths
- 2) Unit entrance door hardware
- 3) Unit entrance door maneuvering clearance (exterior side)
- 4) Entry thresholds
- 5) Kitchen thresholds
- 6) Bathroom thresholds
- 7) Terrace/balcony thresholds
- 8) Accessible route throughout the unit
- 9) Range clear floor space
- 10) Sink clear floor space
- 11) Refrigerator clear floor space
- 12) 40" clearance in galley kitchens/60" clearance in U-shaped kitchens
- 13) Kitchen outlets
- 14) Living room outlets
- 15) Bathroom clear floor space
- 16) Toilet distance to side wall
- 17) Toilet side and rear grab bar reinforcement
- 18) Bathroom sink clear floor space
- 19) Bathroom outlets
- 20) Bathroom toilet clear floor space
- 21) Bathroom tub/shower clear floor space
- 22) Locations of light switches, thermostats, and other environmental controls in units

APPENDIX F

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. Albanese Organization, Inc., et al.*, 16 Civ. _____ (_____) (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 G

**NOTICE TO PERSONS WHO MAY HAVE SUFFERED FROM INADEQUATE
ACCESSIBILITY AT THE VERDESIAN, THE VANGUARD CHELSEA
AND THE SOLAIRE**

On _____, 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 Verdesian, The Vanguard Chelsea, and The Solaire.

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 AS A RESULT OF THE INACCESSIBLE DESIGN AND CONSTRUCTION.

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 H

RELEASE FORM

In consideration of the payment of the sum of _____ dollars (\$ _____), pursuant to the Consent Decree entered in *United States of America v. Albanese Organization, Inc., et al.*, 16 Civ. _____ () (S.D.N.Y.), I hereby release the defendants named in this action 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 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 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