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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

SUZANNE VILCHEZ, MARIA C. COELLO, THE  
COELLO FAMILY TRUST, and FAIR HOUSING  
JUSTICE CENTER, INC.

Plaintiffs,

v.

AVR REALTY COMPANY, LLC; AVR-POWELL C  
DEVELOPMENT CORP.; RPA ASSOCIATES, LCC;  
RPE OVERLOOK DEVELOPMENT CORP; MIELE  
ASSOCIATES, LLP; JOHN MEYER CONSULTING,  
PLANNING, ENGINEERING, LANDSCAPE  
ARCHITECTURE AND LAND SURVEYING, P.C.;  
GARY D. CANNELLA ASSOCIATES; and POWELL  
COVE ASSOCIATES, LLC,

Defendants.

13 Civ. 5522 (KMW) (FM)

**SETTLEMENT AGREEMENT**

This Settlement Agreement (the "Agreement") is entered into by and between Plaintiffs Suzanne Vilchez, Mario Coello, the Coello Family Trust, and Fair Housing Justice Center, Inc. ("FHJC") (together, "Plaintiffs") and Defendants AVR Realty Company, LLC, AVR-Powell C Development Corp., RPA Associates, LLC, RPE Overlook Development Corp., Powell Cove Associates, LLC, Miele Associates, LLP, John Meyer Consulting, Planning, Engineering Landscape Architecture and Land Surveying, P.C., and Gary D. Cannella Associates (together, "Defendants"), by and through their respective counsel (together, the "Parties").

**WHEREAS**, on May 6, 2014, Plaintiffs filed an Amended Complaint, alleging that Defendants discriminated on the basis of disability in the design and construction of two multi-family residential developments in Queens County, New York, (Powell Cove Estates) and

Dutchess County, New York, (Overlook Pointe) in violation of the Fair Housing Act, 42 U.S.C. § 3601 *et seq.*; and the New York State Human Rights Law, New York Executive Law § 296 *et seq.* In addition, Plaintiffs alleged discrimination in violation of the New York City Human Rights Law, New York Administrative Code § 8-107 *et seq.* based on disability by Defendants AVR Realty Company, LLC, AVR-Powell C Development Corp., and Powell Cove Associates, LLC regarding the sale of dwellings at Powell Cove Estates;

**WHEREAS**, Defendants deny the allegations of wrongdoing and liability against them in the Amended Complaint, and by entering into this Agreement do not intend to admit, and do not admit, the same;

**WHEREAS**, Defendants maintain they have complied and will continue to comply with the Fair Housing Act, 42 U.S.C. § 3601 *et seq.*; the New York State Human Rights Law, New York Executive Law § 296 *et seq.*; and the New York City Human Rights Law, New York Administrative Code § 8-107 *et seq.*;

**WHEREAS**, Plaintiffs and Defendants desire to voluntarily resolve the claims, cross-claims and counterclaims asserted in this lawsuit, and agree that the terms of this Agreement, as a compromise to avoid protracted expenses and litigation, reflect a full and fair resolution of the disputes between parties; and

**WHEREAS**, Plaintiffs and Defendants respectfully request that the Court approve and enter the Stipulation of Settlement, and retain jurisdiction to enforce the terms of their settlement;

**NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED** by and among the parties that all claims will be compromised, settled, released, and dismissed upon and subject to the terms of this Agreement, as follows:

## SECTION I

### DEFINITIONS

1. As used in this Agreement, the following terms will have the following meanings:
  - a. “Plaintiffs” means Suzanne Vilchez, Maria C. Coello, Coello Family Trust, and Fair Housing Justice Center, Inc.
  - b. “AVR Defendants” means AVR Realty Company, LLC; AVR-Powell C Development Corp.; RPA Associates, LLC; RPE Overlook Development Corp.; and Powell Cove Associates, LLC.
  - c. “Miele” means Miele Associates, LLP.
  - d. “JMC” means John Meyer Consulting, Planning, Engineering, Landscape Architecture and Land Surveying, PC.
  - e. “Cannella” means Gary D. Cannella Associates
  - f. “Design Professional Defendants” means Miele, JMC, and Cannella.
  - g. “Defendants” means the AVR Defendants, Miele, JMC, and Cannella, collectively.
  - h. “Action” means *Vilchez v. AVR Realty, et. al.*, 13-CV-5522 (KMW) (FM), pending in the United States District Court for the Southern District of New York.
  - i. “Amended Complaint” means the Amended Complaint that Plaintiffs filed in this Action on May 6, 2014.
  - j. “Powell Cove” means Powell Cove Estates and refers to the 202-unit condominium development located in College Point, Queens County, New York.

- k. “Overlook Pointe” refers to the 263-unit condominium and townhouse development in West Fishkill, Dutchess County, New York.
- l. “Covered Multifamily Dwellings” means (a) all units in buildings consisting of four or more units if such buildings have at least one elevator, and (b) ground floor units in buildings consisting of four or more units if such buildings do not have an elevator that are designed and/or constructed by any Defendant or a Defendant’s subsidiary during the term of this Agreement.
- m. “Covered Sites” means Powell Cove, Overlook Pointe, and all residential developments with Covered Multifamily Dwellings to which any Defendant provides its professional services and/or owns, operates, and/or manages during the term of this Agreement, where initial occupancy of any covered multifamily dwelling occurs on or after the Effective Date of this Agreement.
- n. “FHJC’s Service Area” means New York City and Nassau, Suffolk, Westchester, Dutchess, Orange, Putnam, and Rockland Counties.

## SECTION II

### **TERM AND SCOPE OF AGREEMENT**

2. All obligations under this Agreement, unless otherwise specified, will commence within thirty (30) days from the date this Agreement is so-ordered by the Court (“Effective Date”), and shall remain in effect for a period of four (4) years from the Effective Date.

3. This Agreement will be binding on Defendants and all their employees, agents, representatives, officers, heirs, assigns, subsidiaries, or successors in interest, unless otherwise specified.

4. Unless otherwise specified, the terms of this Agreement will apply to the policies for; the design, construction, and/or development of, and/or the operation by each Defendant of Covered Sites in New York City and in Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, and Westchester Counties.

5. The United States District Court for the Southern District of New York will retain jurisdiction to enforce the terms of this Agreement upon the filing of an appropriate motion by any of the Plaintiffs. The parties to this Agreement will endeavor in good faith to informally resolve any differences regarding compliance and interpretation of this Agreement. Plaintiffs will give Defendants written notice of any instance of alleged noncompliance with this agreement and provide Defendants with an opportunity to cure any alleged noncompliance. The Parties agree to confer within forty-five (45) days of the written notice to discuss a reasonable resolution of the allegation(s) and a reasonable timetable to implement the resolution. Only if the parties are unable to reach an agreement, Plaintiffs may file a motion with the Court to enforce this Agreement.

### **SECTION III**

#### **MONETARY RELIEF**

6. Defendants will pay, after receipt by Defendants' counsel of executed W-9 forms, Plaintiffs and their attorneys, Emery Celli Brinckerhoff & Abady LLP ("ECBA") and the Law Offices of James E. Bahamonde, P.C., the total sum of One Million Three Hundred Thousand Dollars (\$1,300,000) in full and final settlement of all of Plaintiffs' claims in this Action,

including but not limited to damages, attorneys' fees, and costs ("Settlement Amount"). The Settlement Amount shall be paid via checks or money transfers, as follows:

- a. Nine Hundred Thousand Dollars (\$900,000) of the Settlement Amount will be delivered to ECBA, on behalf of all Plaintiffs, at its offices located at 600 Fifth Avenue, 10th Floor, New York, New York 10020 within twenty-one (21) business days of the Effective Date. This portion will be made payable to "Emery Celli Brinckerhoff & Abady."
- b. Four Hundred Thousand Dollars (\$400,000) of the Settlement Amount will be delivered to ECBA at its offices located at 600 Fifth Avenue, 10th Floor, New York, New York 10020 within twenty-one (21) business days of the Effective Date. This portion of the Settlement Amount will be made by check payable to "Fair Housing Justice Center, Inc." This portion will be used by the FHJC to create and administer an accessibility fund to provide financial assistance to people with disabilities seeking to modify their dwelling units and/or common areas to increase accessibility. Those eligible to apply for this assistance will be: (i) low-income homeowners and renters with physical disabilities residing within the FHJC's service area, and (ii) any Powell Cove unit owner with physical disabilities. FHJC will adopt policies and procedures for operation of the fund. At its discretion, FHJC may use a portion of the accessibility fund to pay the costs of administering the fund, and to retain architects and other design professional to inspect dwellings and prepare reports related to requests for modifications.

7. Concurrently with the execution of this Agreement, Defendants will deliver to ECBA, as counsel for Plaintiffs, a signed Stipulation and Order of Dismissal. The parties agree to stipulate that dismissal will be with prejudice and each party to bear its own costs. The parties also agree to stipulate that the order will vest the Court with jurisdiction for the sole purpose of enforcing the terms of the Agreement. Counsel for Plaintiffs will file the executed Stipulation and Order of Dismissal, with the Court to dismiss the case within ten (10) business days after the Defendants have made the payment described in the preceding Paragraph.

#### **SECTION IV**

##### **PROVISIONS RELATING TO POWELL COVE**

8. The Parties agree that the Settlement Amount described in Section III includes the cost retrofits to the interior and exterior of the Vilchez/Coello apartment at Powell Cove, including but not limited to the patio, patio door, front door landing, driveway, and sidewalk from the front door to the driveway. In addition, the Settlement Amount may be used to retrofit the common areas at Powell Cove, including but not limited to the sidewalks, curb cuts, and lowering the group of mailboxes that serves the building where the Vilchez/Coello apartment is located.

9. The Parties agree that none of the Defendants have any obligation to design or construct the retrofits described in Paragraph 8 or to obtain necessary approvals or permits for the retrofits described in Paragraph 8. It shall be the responsibility of Plaintiffs Suzanne Vilchez, Maria Coello, and/or the Coello Family Trust to arrange for any of the retrofits described in Paragraph 8.

10. Defendants agree that, in order to obtain required approvals and permits for retrofitting work to be done at Powell Cove, Plaintiffs may use documents that were produced by

Defendants and disclosed to Plaintiffs in the course of litigating the Action. In addition, upon request by Plaintiffs during the term of this Agreement, Defendants will provide copies of additional drawings, plans, and other related documents in the possession or control of Defendants that Plaintiffs may require to obtain approvals and permits for retrofitting work to be done at Powell Cove. This obligation to cooperate does not include incurring any expense by the Defendants in addition to the Settlement Amount, other than incidental costs related to copying and delivering such documents to Plaintiffs.

## **SECTION V**

### **PROVISIONS RELATING TO OVERLOOK POINTE**

11. The AVR Defendants will offer certain accessibility retrofits to the owners of the nine (9) covered units at Overlook Pointe, specified in Exhibit G, through the following procedure:

- a. Within thirty (30) days from the Effective Date, the AVR Defendants will deliver to the owners of the nine (9) covered units at Overlook Pointe a notice informing them that certain retrofits are available, at no cost to them, for their units. The notice will include a list of available retrofits, which is attached hereto as Exhibit G.
- b. The notice will inform the owners that the owners may select any number of the retrofits offered, that the retrofits will be performed by the AVR Defendants at no cost to the individual owners, and that the owners have sixty (60) days in which to select their desired retrofits.
- c. The notice will require all nine (9) unit owners to return a signed form to the AVR Defendants within sixty (60) days specifying which retrofits the owner



requests. If the owner does not return a signed form to the AVR Defendants within sixty (60) days, they will not be entitled to any retrofits and AVR Defendants shall not have any responsibility to complete any retrofits for that unit.

- d. The AVR Defendants will provide copies of all signed and returned forms to the FHJC within ten (10) days after their collection by the AVR Defendants.
- e. The AVR Defendants will complete the selected interior and temporary accessibility retrofits, listed at Part A of Exhibit G, within one hundred twenty (120) days from the end of the 60-day period referenced in Paragraph 11(b).
- f. Should the individual unit owner and/or the Condominium Board of Managers decline to make any exterior retrofit listed at Part B of Exhibit G, the cash value of those retrofits, listed at Exhibit G, will be paid by the AVR Defendants to the FHJC. Such payment will be made within ten (10) days of the unit owner or Condominium Board of Manager's declination of the retrofits. Such payment will be by check made payable to "Fair Housing Justice Center, Inc.," and delivered to the FHJC in care of ECBA at 600 Fifth Avenue, 10<sup>th</sup> Floor, New York, NY 10020.
- g. At the conclusion of the retrofit work, the Peer Reviewer for the AVR Defendants, specified in Paragraph 28, will inspect each retrofitted unit and certify that the retrofits performed comply with the fair housing laws.
- h. The AVR Defendants will provide each certification to the FHJC within ten (10) business days after the Peer Reviewer has submitted his certification to the AVR Defendants.

12. The AVR Defendants will retrofit the curbs, including the decorative cobblestone curbs, and parking lots at Overlook Pointe to bring them into compliance with the accessibility requirements of the FHA.

- a. At the conclusion of the retrofit work, the Peer Reviewer for the AVR Defendants, specified in Paragraph 28, will inspect the site and certify that the curbs and parking lots comply with the fair housing laws.
- b. The AVR Defendants will provide such certification to the FHJC no later than ten (10) business days after the Peer Reviewer has submitted his certification to the AVR Defendants.

13. The AVR Defendants will retrofit the clubhouse at Overlook Pointe to bring it into compliance with the accessibility requirements of the FHA, through the following procedure:

- a. Retrofits listed at Exhibit H will be offered to the Overlook Pointe Homeowners Association (“HOA”) by the AVR Defendants, within thirty (30) days from the Effective Date;
- b. All clubhouse retrofits that the HOA agrees to make from the list at Exhibit H will be performed by the AVR Defendants within one-hundred twenty (120) days of the Effective Date. The Peer Reviewer for the AVR Defendants, specified in Paragraph 28, will inspect the clubhouse and certify that these specific retrofits (i) were completed and (ii) comply with the FHA. Such certification will be provided to the FHJC within ten (10) business days after the Peer Reviewer has submitted his certification to the AVR Defendants; and

- c. Should the HOA decline to make certain clubhouse retrofits listed at Exhibit H, the cash value of those retrofits, also listed at Exhibit H, will be paid by the AVR Defendants to the FHJC. Such payment will be made within ten (10) days of the HOA's vote on the retrofits. Such payment will be by check made payable to "Fair Housing Justice Center, Inc.," and delivered to the FHJC in care of ECBA at 600 Fifth Avenue, 10<sup>th</sup> Floor, New York, NY 10020.

14. The AVR Defendants will pay all costs related to the Peer Reviewer's inspection and certification of Overlook Pointe.

15. The Parties agree that none of the Design Defendants have any responsibility or obligation to design or construct retrofits at Overlook Pointe or to obtain necessary approvals or permits for any such retrofits.

## SECTION VI

### **FAIR HOUSING POLICIES**

16. Defendants, their officers, employees, successors, and assigns agree not to discriminate on the basis of disability as prohibited by the Fair Housing Act, 42 U.S.C. § 3601, *et seq.*, and the New York State Human Rights Laws, New York Executive Law § 296 *et seq.*. This includes agreeing to comply with the Final Fair Housing Accessibility Guidelines (1991), the Fair Housing Act Design Manual (rev 1998), and any of the safe harbors the U.S. Department of Housing and Urban Development recognizes for compliance with the Fair Housing Act's design and construction requirements.

17. Defendants their officers, employees, successors, and assigns agree not to discriminate on the basis of disability in violation of New York City Human Rights Laws, New York City Administrative Code § 8-107 *et seq.*

18. The term “discriminate” as used in the preceding two paragraphs includes the following conduct against residents or prospective residents on the basis of disability by, without limitation:

- a. Denying or withholding housing or otherwise making housing unavailable due to a person’s disability;
- b. Representing to any person that housing is not available for inspection, purchase, or rental due to that person’s disability or the disability of a person intending to reside in the housing;
- c. Discriminating in the terms, conditions, privileges or facilities of sale or rental because of disability;
- d. Making, printing, or publishing, or causing to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of housing that indicates a preference, limitation, or discrimination based on disability; or
- e. Coercing, intimidating, threatening, or interfering with any person, including Plaintiffs, in the exercise or enjoyment of, or on account of his/her having aided or encouraged any other person in the exercise or enjoyment of any right protected by federal or state fair housing laws.

19. The AVR Defendants will adopt the Anti-Discrimination Policy attached hereto as Exhibit A. The AVR Defendants will ensure that each principal and employee with responsibility for the sale or rental of covered multifamily dwellings receives a copy of the Anti-

Discrimination Policy and signs the Acknowledgement Form attached hereto as Exhibit B. Each AVR Defendant will collect the signed Acknowledgement Form from each principal and employee, and shall maintain all signed Acknowledgment Forms for the term of this Agreement.

20. The AVR Defendants will adopt a reasonable accommodation policy (“Accommodation Policy”) in the form attached to this agreement as Exhibit C, which outlines the practice for collecting, evaluating, and acting on requests for reasonable accommodation and modification during the pre- and post-closing phases of development for all Covered Sites with dwelling units for sale and during the operation of all Covered Sites with dwellings units for rent. The Accommodation Policy will be included in the pre- and post-closing materials provided to prospective buyers and with the rental application materials provided to prospective renters at all Covered Sites.

21. The AVR Defendants will designate an employee at the supervisory level to serve as its compliance officer and will provide FHJC with written notice of the name and contact information for the employee. The compliance officer will be responsible for ensuring that each new employee hired during the term of this Agreement with responsibility for the sale or rental of covered multifamily dwellings receives a copy of the Anti-Discrimination Policy and Acknowledgment Form and the Accommodation Policy described in the two preceding paragraphs. The compliance officer is required to attend the training described in Section VIII(A) of this Agreement. If the designated compliance officer leaves his/her employment with the AVR Defendants during the term of this Agreement, the AVR Defendants will appoint a new compliance officer. Within ninety (90) days of his/her appointment, the new designated compliance officer will either receive training from Dominic Marintelli, as described in Section VIII(A) below, or will attend a training session provided by FHJC. The AVR Defendants will

bear the costs of any training by Mr. Marinelli. If the AVR Defendants decide to provide training to its designated compliance officer by requiring the person to attend a training session otherwise provided by FHJC, the cost of the training will be borne by FHJC.

22. Each Defendant will use the fair housing logo, which is attached hereto as Exhibit D (not to scale), or the phrase “Equal Housing Opportunity” on marketing and advertising materials (electronic, print, video, radio, etc.) for multi-family dwellings and/or design and/or construction services provided for multi-family dwellings, and on each Defendant’s website, to the extent each Defendant operates a website.

23. In regards to covered multifamily dwellings, AVR Defendants will include the following statement on its rental and purchase applications:

We are an equal housing opportunity provider. We do not discriminate on the basis of race, color, sex, national origin, religion, disability or familial status (having children under age 18) and any other reasons prohibited by state and local laws.

24. The AVR Defendants will post and visibly display at each of its sales or rental office located at all Covered Sites, a Housing and Urban Development (HUD) fair housing poster, HUD Form 928.1, attached hereto as Exhibit E.

25. The fair housing poster required by the preceding paragraph shall be displayed where it will be readily apparent to all persons seeking housing accommodations or seeking to engage in residential real estate related transactions. The fair housing poster shall be a minimum of 11 inches by 14 inches and comply with the requirements set out in 24 CFR Part 110.

## **SECTION VII**

### **PEER REVIEW PROCEDURES**

#### **A. General Terms of Peer Review**

26. For a period of three (3) years from the Effective Date, each Defendant will retain, at its own expense, an independent consultant with expertise in the accessibility requirements of the Fair Housing Act (“the Peer Reviewer”) to conduct a peer review of covered multifamily dwellings for which each Defendant or any of its subsidiaries provides design and/or construction services.

27. If during the term of this Agreement, the designated Peer Reviewer is no longer available to serve in this capacity, the affected Defendant(s) will notify the FHJC in writing and seek in good faith to obtain the FHJC’s agreement to a new Peer Reviewer, and FHJC’s agreement shall not be unreasonably withheld.

**B. Peer Review Process for AVR Defendants**

28. The AVR Defendants will employ Michael Mase at Environetics as its Peer Reviewer. The Peer Reviewer will review, prior to the commencement of construction at the site, the architectural, site engineering, or other development plans for all Covered Multifamily Dwellings that any AVR Defendant and its subsidiary develops during the term of this Agreement. The Peer Reviewer will prepare a report for each such development that describes (i) the date(s) of the review; (ii) the street address of the development reviewed; (iii) the documents reviewed; and (iv) a description of the Peer Reviewer’s findings with respect to compliance with the seven accessibility requirements specified in the Fair Housing Act, 42 U.S.C. § 3604(f)(3)(C).

29. Upon completion of construction all Covered Multifamily Dwellings, the Peer Reviewer will conduct a physical inspection of the development site and prepare a report for each such development that describes (i) the date(s) of the review; (ii) the street address of the development reviewed; (iii) the documents reviewed; and (iv) a description of the Peer

Reviewer's findings with respect to compliance with the seven accessibility requirements specified in the Fair Housing Act, 42 U.S.C. § 3604(f)(3)(C).

30. No more than once per year during the term of this Agreement, and upon written request from FHJC, the AVR Defendants shall provide a copy of the reports described in Paragraph 29.

31. For the term of this Agreement, the AVR Defendants will keep all documents, including emails, used by or given to the Peer Reviewer in connection with the compliance reporting duties. Upon receipt of written notice by FHJC pursuant to Paragraph 5 of an alleged breach or violation, the AVR Defendants will provide FHJC with copies of all documents that would be discoverable in this Action, including the documents referenced in the preceding sentence and all relevant Peer Reviewer reports. FHJC further agrees to keep confidential all information it inspects pursuant to the terms of this Agreement and will use the information solely for the purposes of confirming compliance with this Agreement.

**C. Peer Review Process for Design Professional Defendants**

32. Defendants Miele, JMC, and Cannella will employ Accessibility Associates as its Peer Reviewer.

33. For projects commenced after the Effective Date, the Peer Reviewer will review the architectural and/or engineering plans and specifications that are intended to be submitted to the local municipality, for all Covered Multifamily Dwellings for which any Design Professional Defendant provides its professional services.

34. The Peer Reviewer will prepare a report for each such development that describes (i) the date(s) of the review; (ii) the documents reviewed; (iii) a description of the Peer



Reviewer's findings with respect to compliance with the seven accessibility requirements specified in the Fair Housing Act, 42 U.S.C. § 3604(f)(3)(C).

35. The Peer Reviewer's report will also indicate what documents the Peer Reviewer reviewed to determine whether the Defendant has construction management responsibilities or a duty of on-site supervision of the contractors. If the Defendant has construction management responsibilities or a duty of on-site supervision of the contractors, the client's name and the address of the project will be included in the Peer Reviewer's report; if the Defendant has no such duties, then the client name and address of the development need not be included in the report.

36. No more than once per year during the term of this Agreement and upon written request from FHJC, the Design Professional Defendants shall provide a copy of the reports described in Paragraph 34.

37. For the term of this Agreement, the Design Professional Defendants will keep all documents, including emails, used by or given to the Peer Reviewer in connection with the compliance reporting duties. Upon receipt of written notice by FHJC pursuant to Paragraph 5 of an alleged breach or violation, the Design Professional Defendants will provide FHJC with copies of all documents that would be discoverable in this Action, including the documents referenced in the preceding sentence and all relevant Peer Reviewer reports. FHJC further agrees to keep confidential all information it inspects pursuant to the terms of this Agreement and will use the information solely for the purposes of confirming compliance with this Agreement.

## **SECTION VIII**

### **MANDATORY TRAINING**

#### **A. Training for AVR Defendants**

38. The AVR Defendants will provide fair housing training to each principal and employee who has responsibilities related to the design and/or construction, sale, or rental of covered multifamily dwellings.

39. The training will cover the following topics: (i) the design and construction requirements of the Fair Housing Act, the Americans with Disabilities Act, and the New York State Human Rights Law as applied to residential dwellings; (ii) the AVR Defendants' duty to comply with federal, state, and local fair housing laws; (iii) the AVR Defendants' duty to grant requests for reasonable accommodations or modifications; and (iv) the terms of this Agreement.

40. The training will be conducted by Accessibility Associates, by Dominic Marinelli. The training session will be provided within ninety (90) days of the Effective Date. Plaintiffs will not bear any costs of the training. If the AVR Defendants join the Design Professional Defendant(s) for a joint training, the training must include additional time for the AVR Defendants to receive training on the topics (ii) and (iii) listed in Paragraph 39 (namely, the AVR Defendants' duty to comply with federal, state, and local fair housing laws, and the AVR Defendants' duty to grant requests for reasonable accommodations or modifications).

41. The AVR Defendants will be required to take attendance at each training session. Within thirty (30) days of the training, the AVR Defendants will provide in writing to FHJC the date and location of each training session, and the name and job title of each attendee.

**B. Training for Design Professional Defendants**

42. Within thirty (30) days from the Effective Date, each Design Professional Defendant will designate an architect or engineer employed by that Defendant to serve as that Defendant's designated trainee who will attend training related to fair housing principles and practices, as described below. The Design Professional Defendants may assign more than one

employee to be trained. Each Design Professional Defendant will provide in writing to FHJC the name and job title of its designated trainee.

43. The training will cover the following topics: the design and construction requirements of the Fair Housing Act, the Americans with Disabilities Act, and the New York State Human Rights Law as applied to residential dwellings.

44. The training will be scheduled with Accessibility Associates within ninety (90) days of the Effective Date of this Agreement. The Design Professional Defendants may provide the training jointly or separately from each other.

45. If a Defendant's designated trainee leaves his/her employment with the Defendant during the term of this Agreement, the Defendant will appoint a new designated trainee, and will provide in writing to FHJC the name and job title of the new designated trainee. Within ninety (90) days of his/her appointment, the new designated trainee will either receive new training from Accessibility Associates or attend a training session provided by FHJC. The Defendant will bear the costs of any training by Accessibility Associates. If a Design Professional Defendant decides to provide training to its designated trainee by requiring the person to attend a training session otherwise provided by the FHJC, the cost of training will be borne by FHJC.

46. Within thirty (30) days of the training, the Design Professional Defendants will provide in writing to FHJC the date and location of the training session, and the name and job title of each attendee.

## **SECTION IX**

### **RECORD RETENTION**

47. For a period of four (4) years from the Effective Date, AVR Defendants will maintain the following records:

- a. Signed copies of the Anti-Discrimination Policy Acknowledgement Form, as described in Paragraph 19;
- b. All standardized rental and purchase application forms used by the AVR Defendants during the term of this Agreement.
- c. All advertisements and marketing materials for covered multifamily dwellings distributed and/or made available to members of the public, prospective residents, and applicants at any time during the term of this Agreement; and
- d. All written requests for reasonable accommodations or modifications received from residents at each of the Covered Sites, and records sufficient to show the response to each request.

## **SECTION X**

### **RELEASES**

48. In exchange for Defendants' agreement to the terms set forth in this Agreement and payment of the monetary relief described in Section III, Plaintiffs fully and forever release, acquit, and forever discharge with prejudice, subject to the terms of this Agreement, Defendants and all their principals, employees, agents, representatives, officers, heirs, assigns, subsidiaries, successors in interest, attorneys, and insurers of Defendants from any and all liability, claims, or rights of action, of any kind or nature whatsoever arising from the allegations set forth or described in the Amended Complaint in this action, whether known or unknown, including all claims for reasonable attorneys' fees and costs (hereinafter, the Plaintiffs' Released Claims"), provided however, that the Plaintiffs' Released Claims will not include any claims to enforce any provision of this Agreement. The release to each Defendant is an individual release. No breach

of this Agreement by a particular Defendant will have any impact on the release or obligations of any of the other Defendants.

49. Each Defendant fully and forever releases, acquits, and forever discharges with prejudice, subject to the terms of this Agreement, Plaintiffs and each other Defendant and their principals, employees, agents, representatives, officers, heirs, assigns, subsidiaries, successors in interest, attorneys, and insurers from any and all liability, claims, or rights of action, of any kind or nature whatsoever arising from the allegations set forth or described in the Amended Complaint and Answers in this action, whether known or unknown, including all claims for reasonable attorneys' fees and costs.

## **SECTION XI**

### **CONSTRUCTION AND SEVERABILITY**

50. This Agreement will be deemed to have been jointly drafted, and no provision herein will be interpreted or construed for or against any party because such party drafted or requested such provision or this Agreement as a whole.

51. If any provision in this Agreement is declared invalid or unenforceable by a court having competent jurisdiction, it is mutually agreed that this Agreement will endure except for the part declared invalid or unenforceable by order of such court, unless the elimination of the invalid provision will materially affect the intent of the Agreement. The parties to this Agreement will consult and use their best efforts to agree upon a valid and enforceable provision that will be a reasonable substitute for such invalid or unenforceable provision in light of the intent of this Agreement.

52. This Agreement contains all the terms and conditions agreed upon by the parties hereto, and no oral agreement entered into at any time nor any written agreement entered into

prior to the execution of this Agreement regarding the subject matter of the instant proceeding will be deemed to exist, to bind the parties hereto, or to vary the terms and conditions contained herein.

53. The parties to this Agreement expressly represent and warrant that they have full legal capacity to enter into this Agreement, that they have carefully read and fully understand this Agreement, that they have had the opportunity to review this Agreement with their attorneys, and that they have executed this Agreement voluntarily, without duress, coercion, or undue influence.

54. This Agreement may be executed in any number of counterparts and each such counterpart will be deemed to be an original. For purposes of executing this Agreement, a document signed and transmitted by facsimile or email will be treated as an original document and have the same binding legal effect as an original signature on an original document.

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*For Plaintiffs:*

EMERY CELLI BRINCKERHOFF  
& ABADY LLP

By:   
Diane L. Houk  
Alison Frick  
600 Fifth Avenue, 10th Floor  
New York, N.Y. 10020  
(212) 763-5000

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BAHAMONDE, P.C.

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By: \_\_\_\_\_  
Suzanne Vilchez

By: \_\_\_\_\_  
Maria C. Coello

By: \_\_\_\_\_  
The Coello Family Trust

By: \_\_\_\_\_  
Gene Capello, President  
Fair Housing Justice Center, Inc.

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Development Corp.; RPA Associates,  
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AVR-Powell C Development Corp.

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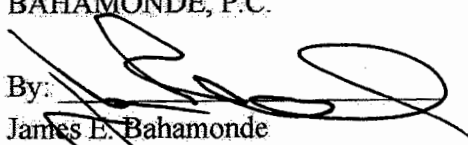
*For Plaintiffs:*

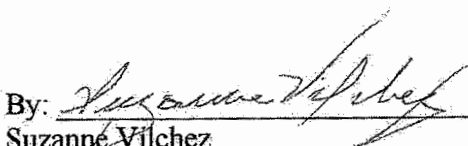
EMERY CELLI BRINCKERHOFF  
& ABADY LLP

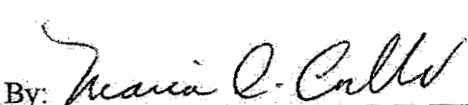
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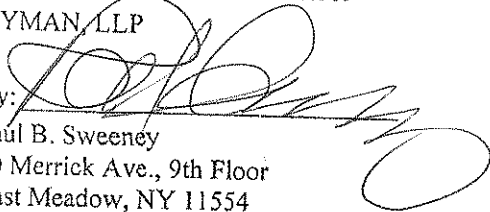
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Miele Associates

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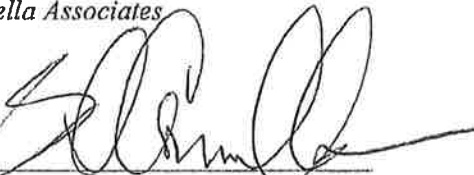
Miele Associates

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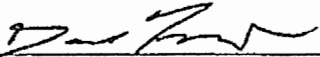
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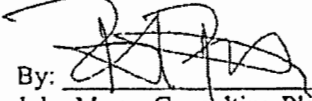
By:  \_\_\_\_\_

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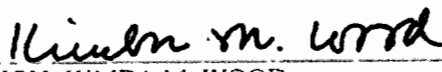
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By:   
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Engineering, Landscape Architecture and  
Land Surveying, P.C.

It is so ORDERED this 27 day of August, 2015.

  
HON. KIMBA M. WOOD  
UNITED STATES DISTRICT COURT JUDGE *K.M.*

**EXHIBIT A**  
**ANTI-DISCRIMINATION POLICY**

As part of our continuing effort to ensure compliance with federal, state, and local anti-discrimination laws, we would like to take this opportunity to remind all employees, of this company and all persons associated with it of our policies regarding discrimination. It is important for all employees to review his or her own actions in light of these requirements and for everyone to keep in mind the importance of treating all persons equally.

It is the policy and practice of this company not to engage in or assist the efforts of others to engage in housing discrimination. Consistent with that policy, we remind you that the anti-discrimination laws of the United States, New York State, and local laws are quite specific in the area of housing, and in conformance with those laws, you must not engage in any of the following conduct during the course of your work for this company:

1. Refuse to show, rent, sell, negotiate for the rental or sale of, or otherwise make unavailable or deny, housing to any person because of their race, color, religion, sex, familial status (having or expecting a child under 18), national origin, disability, marital status, age, sexual orientation, or military status (each a “prohibited basis”);
2. Discriminate against any person in the terms, conditions or privileges of a rental or sale or in the provision of services or facilities in connection therewith because of a prohibited basis;
3. Make any verbal or written statement with respect to the rental or sale of housing that indicates any preference, limitation or discrimination concerning a prohibited basis, or any statement indicating an intention to make any such preference, limitation or discrimination;
4. Represent to any person because of a prohibited basis that any dwelling is not available for inspection or rental or sale when such dwelling is in fact so available;
5. Direct or steer any individual toward a particular building, neighborhood or vacancy because of a prohibited basis; and

It is important to understand that any action you take because race, color, religion, sex, familial status (having or expecting a child under 18), national origin, disability, marital status, age, sexual orientation, or military status that has the effect of making housing unavailable to such persons protected under these laws constitutes a violation of federal, state, and local laws.

We are firmly committed to the goal of fair housing. **You should understand that any violation of this Anti-Discrimination Policy will lead to discipline, up to and including discharge.**

**EXHIBIT B**  
**ACKNOWLEDGMENT AND AGREEMENT**

I acknowledge that I have received and read the Anti-Discrimination Policy for  
\_\_\_\_\_ [insert company name]. I agree to comply with the  
terms of the Policy and with all federal, state, and local housing discrimination laws.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Employee/Agent Name (PRINT)

\_\_\_\_\_  
Employee/Agent Signature

**EXHIBIT C**  
**REASONABLE ACCOMMODATION OR MODIFICATION POLICY  
AND REQUEST FORM**

[INSERT NAME OF DEVELOPMENT/BUILDING] is committed to providing equal housing opportunity. As part of this commitment, we will modify our rules, policies, practices, and services to meet the needs of individuals with disabilities upon request if the accommodation requested is reasonable and necessary to allow the individual to fully use and enjoy residing in our community. We will also permit reasonable modifications of our physical premises if such modifications may be necessary to afford a disabled resident full enjoyment of the premises.

It is our policy to reject reasonable accommodation or modification requests only when they are not related to a disability-based need, impose an undue financial and administrative burden, or fundamentally alter the nature of the housing services we provide. In such case, we will discuss reasonable alternatives that may meet the requesting individual's needs.

***Procedure for Making a Request***

Requests may be submitted in writing, preferably through the attached form. Fully describe the required accommodation or modification on the Reasonable Accommodation Request form. Please include any additional information that you believe would be useful in assisting us to evaluate the request. A request need not be submitted in writing nor be made using the attached form to be considered by us.

***Verification and Documentation***

If your disability or disability-related need is not obvious, we may request that you provide verification that you have a disability-related need for the requested accommodation.

***Providing Disability-Related Accommodations***

We will discuss your request with you. If the request is approved, we will provide a letter explaining how and when the accommodation or modification can be provided. If a request cannot be approved because it is an undue financial and administrative burden or because it would be a fundamental alteration of the services provided by us, then we will discuss alternative accommodations or modifications that may address your disability-related need. If no alternative meets your disability-related the needs, or if you and [INSERT NAME OF DEVELOPMENT/BUILDING] cannot agree on a reasonable alternative, we will notify you of the denial in writing in a reasonable amount of time and will provide an opportunity for you to revise your request.



**Reasonable Accommodation or Modification Request**

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Phone: \_\_\_\_\_

I am making this request on behalf of: \_\_\_\_\_

(Name of Person with Disability)

Please describe the reasonable accommodation or modification you are requesting and the disability-related reason for your request:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

This form, along with any additional information, should be submitted to:

***[INSERT ADDRESS]***

If you have any questions, please contact \_\_\_\_\_ at \_\_\_\_\_

**For Office Use Only**

Approved Reason: \_\_\_\_\_

Denied \_\_\_\_\_

\_\_\_\_\_

**EXHIBIT D**  
**FAIR HOUSING LOGO**



**EQUAL HOUSING  
OPPORTUNITY**

**EXHIBIT E**  
**FAIR HOUSING POSTER**

U. S. Department of Housing and Urban Development



**EQUAL HOUSING  
OPPORTUNITY**

**We Do Business in Accordance With the Federal Fair  
Housing Law**

(The Fair Housing Amendments Act of 1988)

**It is illegal to Discriminate Against Any Person  
Because of Race, Color, Religion, Sex,  
Handicap, Familial Status, or National Origin**

- In the sale or rental of housing or residential lots
- In the provision of real estate brokerage services
- In advertising the sale or rental of housing
- In the appraisal of housing
- In the financing of housing
- Blockbusting is also illegal

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**Anyone who feels he or she has been  
discriminated against may file a complaint of  
housing discrimination:**

**1-800-669-9777 (Toll Free)  
1-800-927-9275 (TTY)  
[www.hud.gov/fairhousing](http://www.hud.gov/fairhousing)**

**U.S. Department of Housing and  
Urban Development  
Assistant Secretary for Fair Housing and  
Equal Opportunity  
Washington, D.C. 20410**

**EXHIBIT F**

**OVERLOOK POINTE COVERED UNITS**

<b>Unit Address</b>	<b>Unit Type</b>
2716 Huron Ct	Boscobel
2710 Huron Ct.	Clermont
2702 Huron Ct.	Boscobel
2816 Huron Ct.	Boscobel
2802 Huron Ct.	Boscobel
2808 Huron Ct.	Clermont
2916 Huron Ct.	Boscobel
2902 Huron Ct.	Boscobel
2910 Huron Ct.	Clermont

**EXHIBIT G**

**LIST OF AVAILABLE RETROFITS FOR OVERLOOK POINTE COVERED UNITS**

Part A: Interior and Temporary Accessibility Retrofits

**Clermont Unit Type**

Available Retrofits:

1. Lower thermostats to below 48” high
2. Replace base cabinets in kitchen with removable bases
3. Replace patio door so that threshold is beveled and no more than 3/4-inch high
4. Temporary paving for access to driveway curb/curb-cut and to mailbox

**Boscobel Unit Type**

Available Retrofits:

1. Lower thermostats to below 48” high
2. Replace and lower the threshold at the front entry door, if not compliant at the unit
3. Replace walk-in closet door under stairs with one with an opening width of at least 32”
4. Replace patio door frame so that threshold is beveled and no more than 3/4-inch high
5. Temporary paving for access to driveway curb/curb-cut and to mailbox

Part B: Specific Exterior Retrofits

**2710 Huron Ct., 2716 Huron Ct., and 2902 Huron Ct.**

Available Retrofits:

1. Level the cross slopes to no more than 2% and run slopes to no more than 5% of the following:
  - a. maneuvering clearance at the unit’s front door (2710 Huron Ct. only)
  - b. walkways between the unit’s front door and its driveway (2710 Huron Ct. and 2716 Huron Ct. only)
2. Extend the walkway to the new dropped curb, to provide compliant access around the driveway.

***Value of Exterior Retrofits:***

2710 Huron Ct	Clearance, sidewalk, new walkway	\$4,500
2716 Huron Ct.	Sidewalk	\$2,500
	New walkway	\$1,500
2902 Huron Ct.	New walkway	\$1,500

**EXHIBIT H**  
**RETROFITS TO BE PERFORMED AT OVERLOOK POINTE CLUBHOUSE**

Location	Alleged Violation	Retrofits to be performed by AVR Defendants
<b>CLUBHOUSE EXTERIOR</b>	Front entry steps require handrails	Install handrails.
	Non-accessible route from parking	Create 2 new compliant parking spots above street lamp area and make new access ramp. Each parking spot shall be 132" inches wide minimum and adjacent to an access aisle 60" inches wide minimum.
	Running slope of walk is more than 5%	Remove and correct.
	Cobblestone curb more than ¼"	Create new access ramp. Un-beveled level change shall not exceed ¼".
	Where accessible ramp meets landing there is a level change > ¼"	Create new access ramp. Un-beveled level change shall not exceed ¼".
	Main exterior wall mounted light protrudes more than 4"	Install detection.
	Front entry door threshold is in excess of ½"	Install compliant threshold and sweep.

<b>BILLIARDS ROOM</b>	Wall mounted TV projects more than 4"	Install detection.
	Pool ball and accessory rack projects more than 4"	Install detection.
	Card table does not provide 27" of knee clearance below table	Install table leg bumpers.
	Checker table does not comply for knee height of 27" or leg width of 24 1/4"	Remove this furniture piece.
<b>DINING AREA</b>	Dining table does not have the required knee clearance of 27"	Modify decorative table supports to provide 27" of knee clearance above the finished floor.
	Cabinet is installed below sink in kitchen	Remove granite/lower sink to below 34". In lieu of the remediation, AVR shall pay FHJC \$150.
	Height of kitchen sink is > 34"	Remove cabinet. In lieu of the remediation, AVR shall pay FHJC \$6500
<b>DECK</b>	Threshold at deck and interior is >1/2"	Create a threshold which is not higher than 1/2".
<b>POWDER ROOM</b>	Grab bar is not installed with leading edge at 54"	Install ADA accessible sign directing users to downstairs bathrooms.
	Pedestal sink does not provide required knee clearance	Install ADA accessible sign directing users to downstairs bathrooms.



	Pedestal sink is installed at >34"	Install ADA accessible sign directing users to downstairs bathrooms.
<b>LIFT</b>	Lift at lower level is > ¼"	Adjust lift as required.
<b>FITNESS ROOM</b>	Coat hooks are located >54" from finished floor	Lower and/or remove coat rack.
<b>CRAFT ROOM</b>	No accessible table is provided	Provide one accessible table.
	Less than 48" is provided for maneuvering perpendicular to the interior of the door	Remove shoe molding to provide 48".
<b>DRINKING FOUNTAIN</b>	Less than 30" width is provided in drinking fountain niche	Make niche 30" minimum width.
<b>MEN's BATHROOM</b>	Entry door at the men's bathroom is < 18"	Replace door with 2'10" door.
	Knee clearance at lavatory is < 27"	Remove decorative wood and install ADA approved drain/HW pipe protection.
	Vertical clearance between floor and stall partitions is < 80"	Raise horizontal bar.
	Flush controls are not located on wide side of water closet	Replace tank with correct flush control.

<b>WOMAN's BATHROOM</b>	Knee clearance at lavatory is < 27"	Remove decorative wood and install approved drain/HW pipe protection.
	Accessible toilet compartment does not allow proper maneuvering clearance	Switch door swing.
<b>EXTERIOR PATIO</b>	Threshold at deck and interior is > ½"	Create a threshold which is not higher than ½" high.
	Wall mounted light protrudes more than 4"	Install proper detection.
	Operable part of rinse shower ring is > 54"	Lengthen chain to be no higher than 48" from finished floor.

**Note:** If the homeowners' association declines to make the retrofits in the shaded boxes, the AVR Defendants will pay to FHJC the value of the retrofits not completed. Defendants agree that the other retrofits will be completed.