

UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

TITLE VIII

CONCILIATION AGREEMENT

Between

Housing Discrimination Project, Inc. (Complainant)

And

Delap Real Estate LLC, Meghan McCormick

And;

Debra Bercuvitz and Kris Thomson (Respondents)

Approved by the FHEO Regional I Director on behalf of the United States Department of  
Housing and Urban Development

FHEO CASE NUMBER: 01-15-0421-8

## A. PARTIES AND SUBJECT PROPERTY

- Housing Discrimination Project, Inc. (hereinafter "Complainants"); protected class: familial status
- Delap Real Estate, LLC, Meghan McCormick; Debra Bercuvitz and Kris Thomson (hereinafter "Respondents")
- Complainant and Respondents are hereafter referred to collectively as the "Parties".
- The subject property is [REDACTED] Florence, Massachusetts 01062 (hereinafter the "Property").

## B. STATEMENT OF FACTS

1. A complaint (the "Complaint") was filed on July 24, 2015, with the United States Department of Housing and Urban Development (the "Department" or "HUD") alleging that Complainant was injured by the discriminatory acts of the Respondents. Complainants allege that the Respondents violated § 804(a), (b), and 804(c) of the Fair Housing Act as amended in 1988 (the Act) by making discriminatory statements and altering the terms and conditions of occupancy with respect to the sale or rental of a dwelling that expressed a preference or limitation based on familial status. Complainant alleges that Respondents placed a rental listing on Craig's List and that when responded to by Complainant that a limitation on based on familial status was imposed. The Department referred the case to Massachusetts Commission Against Discrimination (MCAD) in accordance with a Memorandum of Understanding with MCAD. On August 4, 2015 the Department reactivated the case to complete the investigation.

2. Respondents denied the allegations of discrimination contained in the Complaint. To avoid further litigation the Respondents agree to settle the claims in the underlying action by entering into this Conciliation Agreement (hereinafter the "Agreement").

## C. TERM OF AGREEMENT

3. This Agreement shall govern the conduct of the Parties to it for a period of at least one year from the Effective Date of the Agreement (as defined below), but not less than the time required to complete the requirements contained therein.

## D. EFFECTIVE DATE

4. The Parties expressly agree that this Agreement constitutes neither a binding contract under state or federal law nor a Conciliation Agreement pursuant to the Act, unless and until such time as it is approved by the U.S. Department of Housing and Urban Development, through the FHEO Region I Director or her designee.

5. This Agreement shall become effective on the date on which it is approved by the Director, Fair Housing and Equal Opportunity ("FHEO") Region I of the United States Department of Housing and Urban Development (the "Effective Date").

#### E. GENERAL PROVISIONS

6. It is understood and the Parties expressly agree this Agreement does not constitute an admission by Respondents of any violation of any statute or regulation, and that no finding of liability is made under this Agreement.

7. The Parties acknowledge this Agreement is a voluntary and full settlement of the disputed complaint. The Parties affirm they have read and fully understand the terms set forth herein. No party has been coerced, intimidated, threatened or in any way forced to become a party to this Agreement.

8. Respondents agree that they will not commit any act of discrimination which would interfere with any person's right to own, occupy, sell or rent any property or dwelling or otherwise interfere with that person's access to and enjoyment of said property or dwelling as well as all services and privileges associated with said property or dwelling because of that person's race, color, religion, sex, national origin, disability or familial status.

9. This Agreement, after it has been approved by the FHEO Region I Director, or his or her designee, is binding upon Respondents, their employees, heirs, successors and assigns and all others in active concert with Respondents in the ownership or operation of the Property.

10. It is understood that, pursuant to Section 810(b)(4) of the Act, upon approval of this Agreement by the FHEO Region I Director, it is a public document.

11. This Agreement does not in any way limit or restrict the Department's authority to investigate any other complaint involving Respondents made pursuant to the Fair Housing Act, or any other complaint within the Department's jurisdiction.

12. No amendment to, modification of, or waiver of any provisions of this Agreement shall be effective unless: (a) all signatories or their successors to the Agreement agree in writing to the amendment, modification or waiver; (b) the amendment, modification or waiver is in writing; and (c) the amendment, modification or waiver is approved and signed by the FHEO Region I Director.

13. The Parties agree that the execution of this Agreement may be accomplished by separate execution of consents to this Agreement, and the original executed signature pages attached to the body of the Agreement constitute one document.

14. Complainant hereby knowingly and voluntarily forever waives, releases, remises, forever discharges and covenants not to sue the Department or Respondents or their respective successors, executors, assigns, agents, principals, officers, members, board members, employees, and attorneys (including in their individual capacities) with regard to any and all demands,

actions, claims, causes of action, complaints, damages and injuries of whatever nature, whether presently known or unknown, arising out of the subject matter of HUD Case Number 01-15-0421-8, or which could have been filed in any action or suit arising from said subject matter.

15. Respondents hereby knowingly and voluntarily forever waive, release, remise, forever discharge and covenant not to sue the Department or Complainant or their respective successors, executors, assigns, agents, principals, officers, members, board members, employees, and attorneys (including in their individual capacities) with regard to any and all demands, actions, claims, causes of action, complaints, damages and injuries of whatever nature, whether presently known or unknown, arising out of the subject matter of HUD Case Number 01-15-0421-8, or which could have been filed in any action or suit arising from said subject matter.

#### F. SPECIFIC RELIEF

16. Respondents agree to avoid discriminatory statements in advertising or practices in their interactions with prospective residents. Respondent will produce a non-discrimination policy that outlines prohibited types of statements in advertising and potential client interactions and submit it to the department within 120 days of the Effective Date of this agreement. Respondent agrees to make any changes recommended by the Department within 30 days of notification by the Department.

17. Respondents agree to attend Fair Housing training of at least two hours provided by HUD or a HUD approved trainer within 365 days of the Effective Date of this agreement. If not provided by HUD, Respondents are responsible for the cost of the training and must provide proof of attendance. Training completed after the filing of the Complaint may be used to satisfy the training requirement provided it is approved by HUD.

18. Respondents agree that all rental advertising published in any format will be submitted to the Department for a period of 365 days commencing on the Effective Date of this agreement.

19. Respondent Delap Real Estate LLC agree to pay complainant \$3,250 to further the mission of Complainant within 30 days of the Effective Date of this agreement.

20. Respondents Debra Bercuvitz and Kris Thomson agree to pay complainant a total of \$3000 to further the mission of Complainant within 30 days of the Effective Date of this agreement.

#### G. RELIEF IN THE PUBLIC INTEREST

21. Respondents agree to affirmatively advertise units for rental to families with children by including the phrases 'children welcome' or 'family friendly' in all rental advertisements for a period of 365 days commencing on the Effective Date of this agreement. All advertisements for any rental property owned or advertised by Respondents in the future will state:

This property complies with all fair housing laws, including the Massachusetts Lead Poisoning Prevention and Control Act, which prohibits discrimination against families with children due to the presence of lead paint and requires landlords to

remove all lead paint hazards before renting to any family with a child under the age of six (6).

The above language shall be conspicuous, and in the same size font or a size not more than two points smaller than the property advertisement font. For example, if the property advertisement is in 12 point font, the statement above could be in 10 point or greater font. Respondents shall submit a copy of all advertisements to the Department for a period of one year following the Effective Date.

22. Respondents agree to adopt written leasing procedures which shall include the written criteria for selection as a qualified tenant, and any applicable occupancy policy which shall be no more restrictive than the applicable state or local law. This policy will be due for review and approval by the Department within 30 days of the Effective Date, and may not be implemented without Departmental approval.

23. Respondents Debra Bercuvitz and Kris Thomson, agree to, within 30 days of the time of termination of the leases for, or a change in occupancy of their property at 26 Liberty Street, to de-lead 26 Liberty Street by employment of a Massachusetts licensed professional lead remover.

24. Respondent Delap Real Estate LLC agrees to:

a. Within 30 days of the Effective Date, to include in its right to lease agreement/contract the following:

Landlord agrees to comply with the Massachusetts Lead Poisoning Prevention and Control Act (the "MLPPCA"), which prohibits discrimination against families with children due to the presence, or possible presence, of lead paint and requires landlords to remove all lead paint hazards before renting to any family with a child under the age of 6. For properties built before 1978, the Landlord agrees to complete a Tenant Lead Law Notification and Tenant Certification Form. The Landlord agrees to provide Broker with copies of all records and reports pertaining to lead-based paint and/or lead-based paint hazards in the property. The Landlord agrees to comply with all applicable federal and state Fair Housing Laws. Failure to comply with the MLPPCA or any applicable state or federal fair housing law shall be grounds for termination of this agreement by Broker.

b. Conduct a radio public service campaign consisting of no less than twenty (20), thirty second public service announcements per week for a total period of three (3) weeks with content that conveys that refusing to rent to a family with children because the home has lead is discrimination and that persons who have experienced such treatment should contact the Massachusetts Fair Housing Center. The announcements are to include contact numbers, may include that they are sponsored by Delap Realty and are to be developed and scheduled in cooperation with Complainant to run during non-holiday time periods, Monday through Friday during the hours of 9:00 AM and 5:00 PM. The announcements will run on radio stations WHMP, WRSI and WSPR in English and Spanish as appropriate for the station.

c. Conduct a print public service campaign consisting of a "6x4" ad in Pueblo Latino, once a week for three (3) weeks with content that conveys that refusing to rent to a family with children because the home has lead is discrimination and that persons who have experienced such treatment should contact the Massachusetts Fair Housing Center, Massachusetts Commission Against Discrimination or the Department of Housing and Urban Development. The ads are to include contact numbers and are to be developed and scheduled in cooperation with Complainant and be printed in Spanish.

d. If the parties are unable to agree to the wording of any public service advertising, in print or radio media, the Parties are to submit their proposals to the Department for final arbitration of the announcement.

25. Respondents promise to refrain from any act that would constitute a violation of the Fair Housing Act.

26. Respondents promise not to retaliate against Complainant or any person who participated in the investigation of the Complaint.

27. Respondents agree to retain and make available records that would demonstrate that they have complied with the affirmative obligations under this Agreement.

28. Respondents agree to hold themselves out as an equal opportunity housing provider in its routine advertisements.

#### H. MONITORING

29. The Department shall determine compliance with the terms of this Agreement. During the term of this Agreement, HUD may review compliance with this Agreement. As part of such review, HUD may examine witnesses and copy pertinent records of Respondents. Respondents agree to provide their full cooperation in any monitoring review undertaken by HUD to ensure compliance with this Agreement.

30. Within 180 days of the Effective Date, Respondents shall certify in writing to the FHEO Region I Director that they have complied with paragraphs 16 through 27 of this Agreement to the extent that compliance could be completed within any prescribed timeframe. Respondents Debra Bercuvitz and Kris Thomson shall certify in writing their compliance with paragraph 23 when the de-leading of the subject property is complete and provide a written status report every 90 days until the de-leading of the subject property is complete.

#### I. REPORTING AND RECORDKEEPING

31. All required certifications and documentation of compliance, including verification of payment must be submitted to:

Daniel Weaver  
Enforcement Branch Chief

Office of FHEO, Dept. of HUD, Room 321  
10 Causeway Street  
Boston, MA 02222

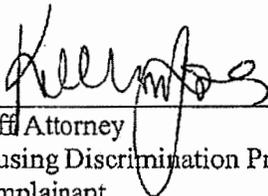
Submission may be completed electronically via:

ConciliationMonitoringRegion1FHEO@hud.gov

J. CONSEQUENCES OF BREACH

33. Whenever the Department has reasonable cause to believe that Respondents have breached this Agreement, the matter may be referred to the Attorney General of the United States, to commence a civil action in the appropriate U. S. District Court, pursuant to §§ 810(c) and 814(b)(2) of the Act.

K. SIGNATURES

  
\_\_\_\_\_  
Staff Attorney  
Housing Discrimination Project, Inc.  
Complainant

11/13/15  
\_\_\_\_\_  
Date

\_\_\_\_\_  
Carla Ness, Broker  
Delap Real Estate, LLC  
Respondent

\_\_\_\_\_  
Date

\_\_\_\_\_  
Meghan McCormick  
Respondent

\_\_\_\_\_  
Date

Office of FHEO, Dept. of HUD, Room 321  
10 Causeway Street  
Boston, MA 02222

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ConciliationMonitoringRegion1FHEO@hud.gov

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#### K. SIGNATURES

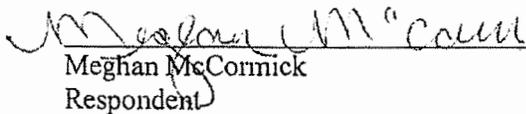
\_\_\_\_\_  
Staff Attorney  
Housing Discrimination Project, Inc.  
Complainant

\_\_\_\_\_  
Date



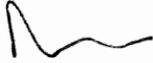
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Carla Ness, Broker  
Delap Real Estate, LLC  
Respondent

\_\_\_\_\_  
Date



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Meghan McCormick  
Respondent

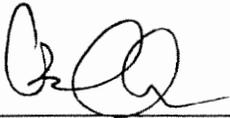
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Date



Debra Bercovitz  
Respondent

11/20/15

Date

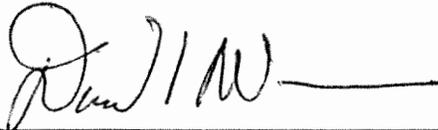


Kris Thomson  
Respondent

11/20/15

Date

L. APPROVAL ON BEHALF OF THE SECRETARY OF HUD



DANIEL J. WEAVER  
ACTING REGION I DIRECTOR  
OFFICE OF FAIR HOUSING AND  
EQUAL OPPORTUNITY

12/3/15

Date