



**United States Department of Housing and Urban Development**

**CONCILIATION AGREEMENT**

**UNDER**

**FAIR HOUSING ACT (Title VIII)**

**BETWEEN**

**Legends Maintenance Corp  
(Complainant)**

**AND**

**The Warmington Group  
(Respondent)**

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

**Effective Date of Agreement:** 3/10/2008

**Expiration Date of Agreement:** 3/10/2018

**HUD Case No.: 09-06-1604-8 (Fair Housing Act)**

**Date Filed: September 6, 2006**

Conciliation Agreement  
Legends Maintenance Corp. V.  
The Warmington Group  
HUD # 09-06-1604-8

**A. Parties and Subject Property**

**Complainant:** Legends Maintenance Corporation, HOA for subject property, which has several disabled association members.

**Respondent:** The Warmington Group (Builders)

**Subject Property:** 10210 Deerfield Beach Avenue  
Las Vegas, NV

**B. Statement of Facts**

On September 6, 2006, Legends Maintenance Corporation (Complainant), filed a complaint with the United States Department of Housing and Urban Development (the Department) against The Warmington Group (Respondent), alleging that they were discriminated against on the basis of handicap in the design and construction of covered multifamily dwellings at 10210 Deerfield Beach Avenue, Las Vegas, NV. The Complainant alleges that the Respondent violated Section 3604(f)(3)(c) of the Fair Housing Act as amended in 1988, (42 U.S.C. §3600 et. seq.).

**C. Term of Agreement**

1. This Conciliation Agreement (Agreement) shall govern the conduct of the parties for a period of ten (10) years from the effective date of the Agreement.

**D. Effective Date**

2. 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 Regional Director or his or her designee.

3. This Agreement shall become effective on the date on which it is approved by the Regional Director, Fair Housing and Equal Opportunity (FHEO), San Francisco Region, U.S. Department of Housing and Urban Development.

**E. General Provisions**

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

5. It is understood that the Respondent denies any violation of law, and that this Agreement does not constitute an admission by the Respondent, or evidence of a determination by the Department of any violation of the Fair Housing Act or any other Fair Housing law.

6. This Agreement, after it has been approved by the FHEO Regional Director, or his or her designee, is binding upon the Respondent, the Complainant, their employees, agents, heirs, executors, representatives, administrators, successors assigns, affiliates, and all others in active concert with them in the ownership or operation of the subject property.

7. It is understood that, pursuant to Section 3610(b)(4) of the Act, upon approval of this Agreement by the FHEO Regional Director or his or her designee, it is a public document. However, the Department will hold confidential all information of a personal or financial nature concerning the parties to this Agreement that is not contained in the body of the Agreement.

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

The Department and Legends Maintenance Corporation agree that in the event that an individual with a mobility impairment contacts the Department claiming to be denied housing because the property that is the subject of this complaint, as described in Section A above, does not meet the requirements of Section 3604(f)(3)(c) of the Act, the Department, or Legends Maintenance Corporation will inform the individual of the existence of this Agreement.

Notwithstanding anything in this Agreement to the contrary, the Department further agrees that, if the Respondent has successfully completed the actions described in Sections I of this Agreement, the Department will inform the Claimant that a determination has been made that the common areas comply with the design and construction requirements of the Act.

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9. No amendment to, modification of, or waiver of any provision of this Agreement shall be effective unless all the following conditions are met: (a) all signatories or their successors to the Agreement are notified in advance and agree to the proposed 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 Regional Director, Office of Fair Housing and Equal Opportunity, Region IX. Any such amendment, modification, waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

10. The parties agree that, in the interest of speedily concluding this matter, this Agreement may be executed by the parties' signatures of consent on separate pages. The separate signed pages will be attached to the body of the Agreement to constitute one document. To avoid delay, the parties agree that signature pages received via facsimile will be considered official provided that the original copy of the signature page is forwarded to the Department immediately upon signing of the Agreement or within ten (10 ) days from the date of the Agreement. Both the original and faxed signature pages will be retained in the official case file.

11. In exchange for the compliance with the provisions of this Agreement, Complainant hereby forever waives, releases, and covenants not to sue the Department or the Respondent, its heirs, executors, assigns, agents, employees and attorneys with regard to any and all claims, damages and injuries of whatever nature, whether presently known or unknown, arising out of the subject matter of HUD Case Number 09-06-1604-8 and Respondent's design and construction of the subject property, or which could have been filed in any action or suit arising from said subject matter.

12. In exchange for the compliance with the provisions of this Agreement, the Respondent hereby forever waives, releases, and covenants not to sue the Department or Complainant, its heirs, executors, assigns, agents, employees and attorneys with regard to any and all claims, damages and injuries of whatever nature, whether presently known or unknown, arising out of the subject matter of HUD Cases Number 09-06-1604-8 and Respondent's design and construction of the subject property, or which could have been filed in any action or suit arising from said subject matter.

13. The parties and their counsel agree that the signature of Beverly Moore, President, Board of Directors of Legends Maintenance Corporation, is made with the authority and on behalf of Legends Maintenance Corporation. The parties and their counsel agree that the signature of Joel Kew, General Counsel of Warmington Homes, is made with the authority and on behalf of the Warmington Group.

**F. NON-RETALIATION**

14. The Respondent acknowledges that they have an affirmative duty not to discriminate under the Act and other Authorities and that it is unlawful to retaliate against any person because that person has made a complaint, testified, assisted or participated in any manner in a proceeding under the Act and other Authorities. The Respondent further acknowledges that any subsequent retaliation or discrimination constitutes both a material breach of this Agreement, and a statutory violation of the Act. Notwithstanding the foregoing, Warmington may defend itself against Complaints brought pursuant to the Fair Housing Act to the fullest extent permitted by law.

**G. RELIEF FOR COMPLAINANT**

15. (A). Respondent agrees to pay the Complainant a sum of five thousand, five hundred dollars (\$5,500) for the cost of a physical accessibility study conducted by Access Technologies Services, Inc. Said payment should be made in the form of a cashier's check and payable to Legends Maintenance Corporation. Said payment should be mailed to the Terry W. Riedy, Attorney at Law, Sir Williams Court, 851 S. Rampart Blvd., Suite 160, Las Vegas, NV 89145-4885, within fifteen (15) days of the effective date of the Agreement.

(B). Respondent shall mail a copy of the cashier's check to the Department at the address listed in Paragraph 30 within five (5) days after delivery to the Complainant.

**H. RELIEF IN THE PUBLIC INTEREST**

16. Respondent acknowledges that the Act makes it unlawful to discriminate against any person in the terms, conditions, or privileges of sales or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a handicap of that person; a person residing in or intending to reside in that dwelling after it is sold, rented or made available, or any person associated with that person.

17. Respondent acknowledges that compliance under the Act includes designing and constructing covered multifamily dwellings in such a manner that (i) the public and common use portions are readily accessible to and usable by handicapped persons; (ii) all ground floor doors designed to allow passage into and within the premises are sufficiently wide to allow passage by handicapped persons in wheelchairs; and (iii) the ground floor dwellings have the following features of adaptive design: an accessible route into and through the dwelling; light switches, electrical outlets, thermostats, and other environmental controls in accessible locations; reinforcements in bathroom walls to allow later installation of grab bars; and usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

18. Respondent agrees to abide by the provisions of Title VIII of the Civil Rights Act of 1968 as amended by the Fair Housing Act of 1988.

19. Within 30 days of the effective date of this Agreement, the Respondent agrees to communicate the provisions of the Agreement to all design professionals, subcontractors and employees who have any responsibilities or duties related to the provisions of this Agreement, and to provide the Department with a certification that this requirement has been met.

I. **RETROFITTING**

20. Within 45 days of the effective date of this Agreement, the Respondent agrees to retrofit, at their own cost, the **public and common use areas** of the subject property. It is understood that the estimated cost is five thousand, eight hundred and fourteen dollars (\$5,814). However, it is the responsibility of the Respondent to make sure that all necessary retrofits of the public and common areas are completed in full compliance with the Fair Housing Act, as described in the Final Fair Housing Accessibility Guidelines, published in the Federal Register on March 6, 1991.

Respondent further agrees that after the completion of said modifications, respondent will provide the Department within thirty (30) days, written certification that the **public and common use areas** are in compliance with the Fair Housing Act.

**J. ESCROW FUND**

21. Respondent agrees that within 45 days of the effective date of this Agreement, Respondent shall establish an interest bearing escrow account in the amount of thirty eight thousand, four hundred and seventy three dollars (\$38,473) to fund the cost of current and future accessibility modifications of identified covered units at Legends. Said modifications will make units more accessible to persons with disabilities.

The escrow fund must be available to current and future owners of covered units for a period of ten (10) years.

22. Respondent shall arrange for an independent third party, approved by the Complainant, to administer the escrow account and bear all costs of the account's administration. Within 45 days of the effective date of this Agreement, the Respondent shall submit all plans and contracts for the escrow account, including the Administrator's name and address, to the U.S. Department of Housing and Urban Development for approval. During the term of the escrow account, the Respondent shall not be involved in any way in the administration of the account or the disbursement of funds.

23. The Administrator shall be required to disburse funds upon the written request of the original and subsequent owner of the non-accessible unit. A prospective buyer may make a written request for funds to the Administrator during negotiations for purchase of a unit, and funds shall be committed for disbursement before an offer to purchase is made. However, such funds shall not be disbursed until an agreement has been reached on a contract of sale. Written requests for escrow funds shall contain a description of the modifications to be completed and related costs, as estimated by the contractor performing the work. If the request appears financially excessive or unreasonable, the Administrator may obtain the opinion of an architect or other relevant expert and/or estimates by other contractors, and may disburse funds accordingly. The Administrator shall be required to disburse funds prior to the completion of all modifications.

24. The Administrator shall be required to keep records of all inquiries and requests for escrow funds, including a log specifying the following data for each interested person: his or her name, address and telephone number; date of inquiry or request; unit; modifications and cost; whether funds were disbursed and, if not, the reason for denial; the amount and date of disbursement. The Administrator shall be required to send a complete copy of this log to the Department on an annual basis during the term of the escrow account.

25. Representatives of the Department shall be permitted to inspect and copy all pertinent records relating to the escrow account at any and all reasonable times and upon reasonable notice.

26. Within 45 days of the effective date of this Agreement, the Respondent shall draft a notice of the availability of the escrow fund. The notice will summarize the reasons for this Agreement and the accessibility modifications allowed under the terms of this Agreement. The Respondent shall also draft a standardized form that current owners and future buyers can use to request accessibility modifications to condominium units.

The Complainant (HOA) shall provide a copy of the notice and standardized form to all current owners and inform owners of their responsibility to disclose the availability of the escrow fund to future buyers. Future buyers shall receive a copy of the notice and standardized form during the negotiation phase of the purchase. The Complainant (HOA) will also post a copy of the notice and standardized form in the common areas of the property, and place the information in their newsletter.

Respondent shall send a copy of the notice and standardized form to the Department and the Complainant (HOA) after the documents are completed.

27. At the end of ten (10) years, any remaining balance in the escrow account shall be disbursed to a non-profit organization or agency in Nevada to assist with the construction or modification of accessible housing. The escrow fund administrator shall contact the Department no later than six (6) months prior to the expiration of the escrow fund for instructions on disbursement.

**K. MONITORING**

28. Complainant and Respondent agree that the Department shall monitor compliance with the terms and conditions specified in this Agreement. As part of such monitoring, the Department may inspect Respondents' property identified in Section A of this Agreement, interview witnesses and copy pertinent records of the Respondent. Respondent agrees to provide its full cooperation in any monitoring review undertaken by HUD to ensure compliance with this Agreement.

**L. REPORTING AND RECORDKEEPING**

29. This Agreement contains specific actions that are required of the Complainant and Respondent. These actions must be completed within the specified timeframes and the Department must verify satisfactory completion. It is understood that this Agreement may serve as the parties' sole notice of the required contents and deadlines. It is also understood that the terms set forth in this Agreement are contractual and not merely recital.

30. All required certifications and documentations of compliance with the terms of this Agreement shall be submitted to:

U.S. Department of Housing and Urban Development  
Fair Housing Enforcement Center  
ATTENTION: CONCILIATION REVIEW  
600 Harrison Street, Third Floor  
San Francisco, CA 94107

**M. CONSEQUENCES OF BREACH**

31. The parties understand that if the Department has reasonable cause to believe that the Respondent has breached this Agreement, the Department shall refer the matter to the Attorney General of the United States, to commence a civil action in the appropriate U.S. District Court, pursuant to 42 USC 3610(c).

**N. SIGNATURES**

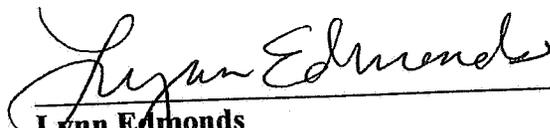
   
Beverly Moore, President, Board of Directors of Legends Maintenance Corp  
(Complainant) Date

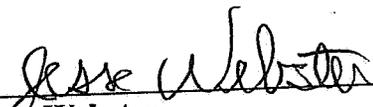
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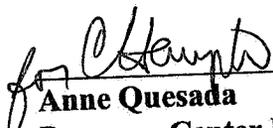
Joel Kew  
General Counsel  
Warmington Group  
(Respondent)

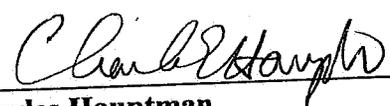
Date

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Date 3/6/08  
**Lynn Edmonds**  
**Equal Opportunity Specialist**  
**Office of Fair Housing and**  
**Equal Opportunity**

  
\_\_\_\_\_  
Date 3/6/08  
**Jesse Webster**  
**Enforcement Branch Chief**  
**Office of Fair Housing and**  
**Equal Opportunity**

  
\_\_\_\_\_  
Date 3/10/2008  
**Anne Quesada**  
**Program Center Director**  
**Office of Fair Housing and**  
**Equal Opportunity**

  
\_\_\_\_\_  
Date 3/10/2008  
**Charles Hauptman**  
**Regional Director**  
**Office of Fair Housing and**  
**Equal Opportunity**