

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

[REDACTED]
c/o Ashley Ameika, Esq.
Ameika Law, LLC
2170 Ashley Phosphate Road, Suite 620
North Charleston, SC 29406

Complainant,

vs.

The Elms Homeowners Association
[REDACTED]
Ford Wallace Thompson LLC
715 King Street
Charleston, SC 29403

Community Management Group, LLC
[REDACTED]
Chandler & Dudgeon LLC
145 King Street, Suite 100
Charleston, SC 29401

Respondents.

) BEFORE THE SOUTH CAROLINA
) HUMAN AFFAIRS COMMISSION

) SHAC No. H-3-17-037
) HUD No. 04-17-9777-8

CONCILIATION AGREEMENT

This compromise Conciliation Agreement is entered into by and between the South Carolina Human Affairs Commission (hereinafter "Commission"), on behalf of [REDACTED] (hereinafter "Complainant"), versus The Elms Homeowners Association, Community Management Group, LLC, and [REDACTED] (hereinafter "Respondents").

WHEREAS, a verified complaint was filed on September 27, 2017 by Complainant against Respondents alleging a violation of the South Carolina Fair Housing Law and dual-filed with the United States Department of Housing and Urban Development (HUD) under the Federal Fair Housing Act, as amended.

I. CASE SYNOPSIS

The Complainant alleges that the Respondents excluded her and her husband from attending and participating in events because she has an assistance animal. The Complainant said she is also not able to use the pool in the community because it is not wheelchair accessible. She stated that the pool deck, front door and side doors of the clubhouse and bathroom of the clubhouse are not accessible. The Complainant stated that the Bus stop, which is an advertised amenity, is also not accessible. The Complainant also alleged that the Respondents charged her \$584.25 for legal fees after filing a Fair Housing complaint.

Respondents deny having discriminated against Complainant, but participated in the litigation and mediation process in good faith. The parties mediated the dispute with a professional mediator, and reached a settlement, which is set forth in Exhibit A. The federal lawsuit now has been dismissed with prejudice, and all disputes between the parties have been resolved. The Complainant has agreed to withdraw her South Carolina Human Affairs Commission complaint and to cooperate with getting the Commission to dismiss all existing investigations, etc. of the Elms and its Board/employees.

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WHEREAS, the Commission and the parties hereto wish to reach a just resolution of the aforementioned dispute, and reach a full, equitable and final settlement of all matters arising out of the aforementioned complaint.

NOW, THEREFORE, the parties hereby agree and stipulate to the following:

II. GENERAL PROVISIONS

The terms set forth herein are contractual and not merely a recital.

- A. The parties acknowledge that this Agreement is a full settlement of the disputed complaint. The parties hereto state that they have read and fully understand the significance of the terms set forth herein and have executed this compromise Conciliation Agreement freely and voluntarily. No party has been coerced, intimidated, threatened, or in any way forced to become a party to this Agreement.
- B. By signing this Agreement both Complainant and Respondent state that they have had the opportunity to seek legal counsel regarding the effects of this Agreement.
- C. This conciliation agreement fully and completely resolves all issues arising out of SHAC Case #H-3-17-037 HUD Case #04-17-9777-8 through the effective date of this agreement. The Commission and the Charging Party will take no further legal action with respect to, and will not initiate any action pertaining to, the facts and events which led to the filing of the charge so long as the parties abide by the terms of this Conciliation Agreement.
- D. This Agreement, after it has been approved by the Commissioner of South Carolina Human Affairs Commission (SCHAC), is binding upon all Respondents, their employees, successors and all others in active concert with them in the ownership or operation of The Elms of Charleston; 9100 Elms Plantation Blvd, North Charleston, South Carolina 29406.
- E. It is understood that, pursuant to Section 31-21-120 (D) of the South Carolina Code of Laws Fair Housing Law, upon approval of this Agreement by the Commissioner of SCHAC, it is a public document.
- F. This Agreement does not in any way limit or restrict SCHAC's authority to investigate any other complaint involving Respondents made pursuant to the Fair Housing Law, or any other law within SCHAC's jurisdiction.
- G. This Conciliation Agreement constitutes closure of the complaint at HUD and South Carolina Human Affairs Commission upon a determination that Complainant(s) and Respondent(s) have complied with the terms of the Agreement.

III. DISMISSAL WITHOUT PREJUDICE

Given that the parties have resolved the dispute and agreed, in writing, to a plan going forward, the Commission hereby closes this case and investigation without prejudice. The Commission retains the authority to reopen the matter should credible evidence be presented that any party has not complied with the agreements set forth in Exhibit A.

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authority to reopen the matter should credible evidence be presented that any party has not complied with the agreements set forth in Exhibit A.

IV. EFFECTIVE DATE

This agreement shall become effective on the date on which it is approved and signed by the Commissioner of the South Carolina Human Affairs Commission.

IN WITNESS WHEREOF, the parties have subscribed their names hereto on the day and date indicated.

[Redacted] 3-27-19
(Date)
Complainant

[Redacted] 3-2-19
(Date)
The Elms Homeowners Association
Respondent Representative

[Redacted] 3-5-19
(Date)
Community Management Group, LLC
Respondent Representative

[Redacted] Mar. 2 2019
(Date)
Respondent

[Redacted] 3-27-19
(Date)
Conciliator

Approved on Behalf of the Commission

Raymond Buxton II
Raymond Buxton II, Commissioner

3/29/19
(Date)

EXHIBIT A to Conciliation Agreement

FULL AND COMPLETE MUTUAL RELEASE

This Full and Complete Mutual Release (the "Release") is made and entered into as of the last date indicated below.

WHEREAS, on or about January 9, 2018, Plaintiff [REDACTED] ("Plaintiff") filed suit against Defendants The Elms of Charleston, Inc. ("The Elms") and Community Management Group, LLC ("CMG") (together "Defendants," collectively the "Parties") in the United States District Court of South Carolina, Charleston Division, styled [REDACTED] *v. The Elms of Charleston, Inc. and Community Management Group, LLC*, C/A No. 2:18-CV-00063-RMG (the "Lawsuit"); and

WHEREAS, the Lawsuit alleges certain claims against Defendants arising from actions toward Plaintiff after her purchase of property at the Elms of Charleston, as more fully set forth in the Lawsuit (the "Incidents"); and

WHEREAS, Defendants filed Answers to the Complaint in the Lawsuit, and have denied and continue to deny the allegations against them; and

WHEREAS, Plaintiff and Defendants wish to avoid the time and costs associated with further dispute and litigation and, without admission of liability by any party, enter into a settlement in order to provide for a payment and certain accommodations in full settlement and discharge of all claims which have been made, or might be made, in the Lawsuit or by reason of the Incidents, upon the terms and conditions set forth below; and

WHEREAS, the Parties mediated the case on December 12, 2018, and reached a settlement agreement, and incorporate herein the written Settlement Terms signed by all Parties

NOW, THEREFORE, the Parties, agree to the following:

1. **Payment.** Plaintiff shall receive [REDACTED] [REDACTED] behalf of all Defendants.
2. **Accommodations.** Plaintiff and The Elms agree to the Accommodations, Service Animal Policy, Training, and Announcement, as provided in the fully executed Settlement Terms (specifically Paragraph Nos. 2 (including all sub-paragraphs), 3, 4, and 5), which is incorporated by reference and attached as Exhibit A hereto.

Plaintiff understands that this payment and the accommodations are contingent upon receipt of this fully-executed Release and an executed Stipulation of Dismissal with Prejudice.

3. **Release of Defendants.** Plaintiff, intending to be legally bound and in exchange for the payment and accommodations provided for in Paragraphs 1 and 2, does for herself, her agents, heirs, administrators, executors, personal representatives, successors, and assigns (the "[REDACTED]"), hereby remise, release and forever discharge Defendants, and their employees, directors (past and present), officers, agents, departments, successors, assigns, attorneys, insurers (including, but not limited to, the State Farm

Fire & Casualty Co.), and anyone else who might be claimed to be jointly and severally liable with them (collectively, the "Elms/CMG Parties"), of and from any and all past, present, or future actions and causes of action, claims, demands, damages, debts and compensation whatsoever, whether known or unknown, asserted or unasserted, which the Doran Parties may now have or hereinafter accrue or may otherwise be acquired, arising from or in any way relating to the Incidents and/or the Lawsuit, including, without limitation, claims for violation of U.S. and/or S.C. Constitution, liability under The Fair Housing Act (42 U.S.C. § 3601, *et seq.*), liability under the South Carolina Fair Housing Act (S.C. Code Ann. § 31-21-10, *et seq.*), negligence, emotional distress, personal injury, loss of consortium, costs, attorneys' fees, interest, and any and all claims asserted, or which could have been asserted, in the Lawsuit. It is expressly understood and agreed that this Release is intended to cover, and does cover, not only all known alleged defects, losses and damages but, any further defects, losses and damages not known or anticipated which may later develop or be discovered, including any and all effects and consequences thereof.

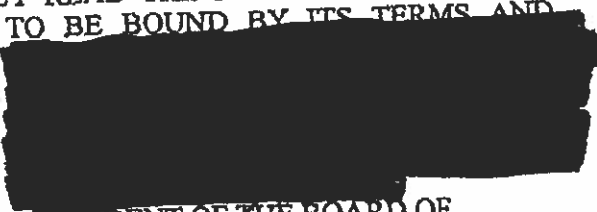
4. Release of Plaintiff. Defendants, intending to be legally bound, do for themselves, and all other Elms/CMG Parties, hereby remise, release and forever discharge Plaintiff, and all other Doran Parties, of and from any and all past actions and causes of action, claims, demands, damages, debts and compensation whatsoever, whether known or unknown, asserted or unasserted, which the Elms/CMG Parties may now have or hereinafter accrue or may otherwise be acquired, arising from or in any way relating to the Incidents and/or the Lawsuit, including, without limitation, any claims, whether based in tort, contract, or any federal, state or local law, statute or regulation, for costs, attorneys' fees, interest, and any and all claims asserted, or which could have been asserted, in the Lawsuit.
5. Mutual Non-Disparagement. As provided in the fully executed Settlement Terms (specifically Paragraph No. 6), which is incorporated by reference (Exhibit A), Plaintiff and Defendants (inclusive of their employees) represent that they shall not disparage each other publicly, or on any form of social media, or through other forms of communication.
6. Withdrawal of all claims by Plaintiff. As provided in the fully executed Settlement Terms (specifically Paragraph No. 7), which is incorporated by reference (Exhibit A), Plaintiff represents that she will withdraw the South Carolina Human Affairs Commission Complaint and all other complaints and cooperate with getting the government/agencies to dismiss all existing investigations, etc. of The Elms and its Board/employees.
7. No Other Actions/Covenant Not to Sue. Plaintiff warrants and represents that – other than the Lawsuit and the South Carolina Human Affairs Commission Complaint – Plaintiff has not filed or otherwise initiated, and will not file or initiate, or cause to be filed or initiated, whether in an individual or representative capacity, any complaint, lawsuit or other proceeding, in any forum, venue, court or administrative agency, against any of the Released Parties, or any other individual or entity, based upon, arising from, or in any way related to the Incidents or matters raised, or which could have been raised, in the Lawsuit.

8. No Admission of Liability. The payment and accommodations/actions herein provided for shall not be construed as an admission of any liability by Defendants, as Defendants have denied and continue to deny any liability whatsoever.
9. Liens. Plaintiff represents and warrants that there are no liens asserted against the payment to be made hereunder, or if any lien(s) exist, that satisfaction of said lien(s) shall be Plaintiff's sole responsibility and will be satisfied upon execution and the distribution of the monies provided for in this Release.
10. Dismissal with Prejudice of the Lawsuit. The Parties warrant and represent that they will cause the Lawsuit to be dismissed with prejudice within ten (10) days of receiving the funds set forth in ¶ 1, above, and hereby authorize and direct their legal counsel to take all actions necessary to accomplish the same, including, without limitation, execution and filing of a notice or stipulation of dismissal with prejudice.
11. Warranty of Non-Assignment & Authority. Plaintiff warrants and represents that no other person or entity has, or has had, any interest in the claims, demands, obligations, or causes of action referred to in this Release, except as otherwise set forth herein; that Plaintiff has the sole right and exclusive authority to execute this Release and receive the sums specified in it; and that Plaintiff has not sold, assigned away, transferred, conveyed or otherwise disposed of any claims, demands, obligations, causes of action, or matters referred to in this Release, and will not purport to do the same.
12. Attorneys' Fees. Each party shall bear all of their own attorneys' fees and costs in connection with the Lawsuit and the matters and documents referred to herein.
13. Construction. No party should be prejudiced by its having drafted or participated in the drafting of this Release.
14. Tax Consequences. Plaintiff acknowledges that Defendants have made no representations, express or implied, concerning the tax consequences, if any, of the payments provided for herein. To the extent any taxes may be due, Plaintiff acknowledges Plaintiff's sole responsibility for the same.
15. Voluntary Execution & Authorization. Plaintiff warrants and represents that she has carefully read this Release, understands it, and has had the opportunity to consult with legal counsel regarding this Release, agrees with its terms, and is duly authorized to execute it, and freely, voluntarily, and knowingly executes it.
16. Governing Law. This Release shall be governed by and construed in accordance with the laws of the State of South Carolina, with venue for any disputes in Charleston, South Carolina.
17. Entire Agreement. This Release contains the entire and exclusive understanding of the parties and supersedes all oral agreements and prior negotiations. This Release may not be modified or amended except in writing by the parties hereto.
18. Effectiveness. This Release shall become effective upon execution by all Parties. It will be considered executed when the signed and initialed release is delivered by

electronic or facsimile transmission to counsel; such signature shall be treated in all respects as having the same effect as an original signature.

[SIGNATURE BLOCKS APPEAR ON FOLLOWING PAGE]

I CERTIFY THAT I HAVE CAREFULLY READ THE FOREGOING FULL AND COMPLETE RELEASE AND AGREE TO BE BOUND BY ITS TERMS AND CONDITIONS AS MY OWN FREE ACT.



PRESIDENT OF THE BOARD OF THE ELMS OF CHARLESTON HOMEOWNERS ASSOCIATION, INC.

2-13-19
Date

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

Personally appeared before me the above-referenced ROD BELSKY, to me known to be the person described herein, and who executed the foregoing Release and acknowledged that s/he executed the same as hcr/his own free act and deed.

SWORN to before me this 13th
day of February 2019.

Notary Public for South Carolina
My commission expires:

LINDA L. BARNETT
Notary Public, State of South Carolina
My Commission Expires 1/27/2027

SETTLEMENT TERMS
Mary Doran v. The Elms et al.
Civil Action No. 18-cv-63-RMG
Mediation: 12/12/2018

As a result of the mediation settlement conference conducted in this case on December 12, 2018, the parties have reached a full and final compromise and settlement of Civil Action No. 18-cv-63-RMG pending in the United States District Court for South Carolina, Charleston Division, upon the following material terms:

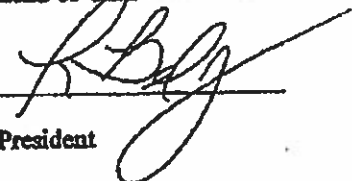
1. **Settlement Funds:** Plaintiff shall receive [REDACTED] on behalf of all defendants.
2. **Accommodations:**
 - a. **Bus:** If The Elms replaces the bus, it will be wheelchair accessible.
 - b. **Automatic door:** The Elms will install an automatic opener to the left side door to the Clubhouse and make it wheelchair accessible.
 - c. **Bathrooms:** The Elms will make the Clubhouse bathrooms wheelchair accessible by no later than the end of 2020.
 - d. **Pool lift:** The Elms will obtain a pool lift that will be operational by the pool season of 2020.
 - e. **Paved path:** The Elms will install a paved path between the bocce ball court and the access road (about 30 feet).
 - f. **Timing:** As to the accommodations lettered b., c., d., and e., above, the parties intend that The Elms will commence, diligently pursue, and complete the hiring of design professionals and contractors to compete the work so that it is operational as soon as reasonably practicable, but in no event later than the dates set forth above.
3. **Service animal policy:** The Elms will adopt a service animal policy that complies with federal and South Carolina law.
4. **Training:** The Elms Board and employees will participate in FHA training through SCHAC.
5. **Announcement:** The Elms Board of Directors will make an announcement to the membership regarding the settlement terms (excluding the amount of the settlement sum) and the changes implemented.
6. **Mutual Non-Disparagement:** The Plaintiff and the Association (inclusive of its employees) shall not disparage one another, publicly or on any form of social media, or through other form of communication.

7. Withdrawal of all claims by plaintiff: Plaintiff will withdraw the SCHAC and all other complaints and cooperate with getting the government/agencies to dismiss all existing investigations, etc. of the The Elms and its Board/employees.
8. Complete release: Full mutual release by all parties, including release of The Elms, all current and past board members, and all current and past property management companies, including Community Management Group, LLC, and the parties' insurers, which release includes all state, federal, and other lawsuits and administrative actions of all sorts. Without affecting the enforceability of this memorandum agreement, counsel for the Defendants shall prepare for review a more formal mutual release consistent with the terms hereof.
9. Stipulation of Dismissal: Without affecting the ability of any party to enforce the terms of this agreement in any court having jurisdiction, the parties authorize their attorneys of record to file a dismissal of the civil action, with prejudice, upon the payment of the Settlement Sum.

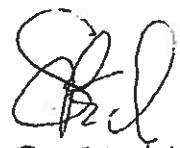
 Jim Palczynski

Plaintiff

The Elms of Charleston Homeowners Association, Inc.

By: 

It's: President


STEPHEN H. PARK

The undersigned counsel have signed below for compliance with Rule 43(k), SCRPC, only:

Oshtey America Plaintiff's Counsel

Brian Gambrell Plaintiff's Counsel

Stute Jaur Counsel for The Elms of Charleston, Inc.