

Housing Discrimination Complaint

U.S. Department of Housing
and Urban Development
Office of Fair Housing
and Equal Opportunity

OMB Approval No. 2529-0011

Please type or print this form

Public Reporting Burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Read this entire form and all the instructions carefully before completing. All questions should be answered. However, if you do not know the answer or if a question is not applicable, leave the question unanswered and fill out as much of the form as you can. Your complaint should be signed and dated. Where more than one individual or organization is filing the same complaint, and all information is the same, each additional individual or organization should complete boxes 1 and 7 of a separate complaint form and attach it to the original form. Complaints may be presented in person or mailed to the HUD State Office covering the State where the complaint arose (see list on back of form), or any local HUD Office, or to the Office of Fair Housing and Equal Opportunity, U.S. Department of HUD, Washington, D.C. 20410.

This section is for HUD use only.

Number	(Check the applicable box) <input type="checkbox"/> Referral & Agency (specify) <input type="checkbox"/> Systemic <input type="checkbox"/> Military Referral	Jurisdiction <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Additional Info	Signature of HUD personnel who established Jurisdiction
Filing Date			

1. Name of Aggrieved Person or Organization (last name, first name, middle initial) (Mr.,Mrs.,Miss,Ms.)	Home Phone	Business Phone
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Street Address (city, county, State & zip code)

2. Against Whom is this complaint being filed? (last name, first name, middle initial)	Phone Number
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Street Address (city, county, State & zip code)

Check the applicable box or boxes which describe(s) the party named above:

☐ Builder ☐ Owner ☐ Broker ☐ Salesperson ☐ Supt. or Manager ☐ Bank or Other Lender ☐ Other

If you named an individual above who appeared to be acting for a company in this case, check this box ☐ and write the name and address of the company in this space:

Name:	Address
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Name and identify others (if any) you believe violated the law in this case:

3. What did the person you are complaining against do? Check all that apply and give the most recent date these act(s) occurred in block No. 6a below.

☐ Refuse to rent, sell, or deal with you ☐ Falsely deny housing was available ☐ Engage in blockbusting ☐ Discriminate in broker's services
☐ Discriminate in the conditions or terms of sale, rental occupancy, or in services or facilities ☐ Advertise in a discriminatory way ☐ Discriminate in financing ☐ Intimidated, interfered, or coerced you to keep you from the full benefit of the Federal Fair Housing Law
☐ Other (explain)

4. Do you believe that you were discriminated against because of your race, color, religion, sex, handicap, the presence of children under 18, or a pregnant female in the family or your national origin? Check all that apply.

<input type="checkbox"/> Race or Color <input type="checkbox"/> Black <input type="checkbox"/> White <input type="checkbox"/> Other	<input type="checkbox"/> Religion (specify)	<input type="checkbox"/> Sex <input type="checkbox"/> Male <input type="checkbox"/> Female	<input type="checkbox"/> Handicap <input type="checkbox"/> Physical <input type="checkbox"/> Mental	<input type="checkbox"/> Familial Status <input type="checkbox"/> Presence of children under 18 in the family <input type="checkbox"/> Pregnant female	<input type="checkbox"/> National Origin <input type="checkbox"/> Hispanic <input type="checkbox"/> Asian or Pacific Islander <input type="checkbox"/> American Indian or Alaskan Native <input type="checkbox"/> Other (specify)
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5. What kind of house or property was involved? <input type="checkbox"/> Single-family house <input type="checkbox"/> A house or building for 2, 3, or 4 families <input type="checkbox"/> A building for 5 families or more <input type="checkbox"/> Other, including vacant land held for residential use (explain)	Did the owner live there? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown	Is the house or property <input type="checkbox"/> Being sold? <input type="checkbox"/> Being rented?	What is the address of the house or property? (street, city, county, State & zip code)
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6. Summarize in your own words what happened. Use this space for a brief and concise statement of the facts. Additional details may be submitted on an attachment.
Note: HUD will furnish a copy of the complaint to the person or organization against whom the complaint is made.

6a. When did the act(s) checked in Item 3 occur? (Include the most recent date if several dates are involved)

7. I declare under penalty of perjury that I have read this complaint (including any attachments) and that it is true and correct.

Signature & Date

1/30/2018 ; See signature pages in Attachment C

What Does the Fair Housing Amendments Act of 1988 Provide?

The Fair Housing Act declares that it is national policy to provide fair housing throughout the United States and prohibits eight specific kinds of discriminatory acts regarding housing if the discrimination is based on race, color, religion, sex, handicap, familial status or national origin.

1. Refusal to sell or rent or otherwise deal with a person.
2. Discriminating in the conditions or terms of sale, rental, or occupancy.
3. Falsely denying housing is available.
4. "Blockbusting"—causing person(s) to sell or rent by telling them that members of a minority group are moving into the area.
6. Discrimination in financing housing by a bank, savings and loan association, or other business.
7. Denial of membership or participation in brokerage, multiple listing, or other real estate services.
8. Interference, coercion, threats or intimidation to keep a person from obtaining the full benefits of the Federal Fair Housing Law and/or filing a complaint.

What Does the Law Exempt?

The first three acts listed above do not apply (1) to any single family house where the owner in certain circumstances does not seek to rent or sell it through the use of a broker or through discriminatory advertising, nor (2) to units in houses for two-to-four families if the owner lives in one of the units.

What Can You Do About Violations of the Law?

Remember, the Fair Housing Act applies to discrimination based on race, color, religion, sex, handicap, familial status, or national origin. If you believe you have been or are about to be, discriminated against or otherwise harmed by the kinds of discriminatory acts which are prohibited by law, you have a right, within 1 year after the discrimination occurred to:

1. **Complain to the Secretary of HUD** by filing this form by mail or in person. HUD will investigate. If it finds the complaint is covered by the law and is justified, it will try to end the discrimination by conciliation. If conciliation fails, other steps will be taken to enforce the law. In cases where State or local laws give the same rights as the Federal Fair Housing Law, HUD must first ask the State or local agency to try to resolve the problem.
2. **Go directly to Court** even if you have not filed a complaint with the Secretary. The Court may sometimes be able to give quicker, more effective, relief than conciliation can provide and may also, in certain cases, appoint an attorney for you (without cost).

You Should Also Report All Information about violations of the Fair Housing Act to HUD even though you don't intend to complain or go to court yourself.

Additional Details. If you wish to explain in detail in an attachment what happened, you should consider the following:

1. If you feel that others were treated differently from you, please explain the facts and circumstances.
2. If there were witnesses or others who know what happened, give their names, addresses, and telephone numbers.
3. If you have made this complaint to other government agencies or to the courts, state when and where and explain what happened.

Racial/Ethnic Categories

1. **White (Non Hispanic)**—A person having origins in any of the original peoples of Europe, North Africa, or the Middle East.
2. **Black (Non Hispanic)**—A person having origins in any of the black racial groups of Africa.
3. **Hispanic**—A person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race.
4. **American Indian or Alaskan Native**—A person having origins in any of the original peoples of North America, and who maintains, cultural identification through tribal affiliation or community recognition.
5. **Asian or Pacific Islander**—A person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands. This area includes, for example, China, Japan, Korea, the Philippine Islands, and Samoa.

You can obtain assistance (a) in learning about the Fair Housing Act, or (b) in filing a complaint at the HUD Regional Offices listed below:

For Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont:

NEW ENGLAND OFFICE (Marcella_Brown@hud.gov)

Fair Housing Enforcement Center
U.S. Department of Housing and Urban Development
Thomas P. O'Neill, Jr. Federal Building
10 Causeway Street, Room 321
Boston, MA 02222-1092
Telephone (617) 994-8300 or 1-800-827-5005
Fax (617) 565-7313 • TTY (617) 565-5453

For New Jersey and New York

New York/New Jersey Office (Stanley_Seidenfeld@hud.gov)

Fair Housing Enforcement Center
U.S. Department of Housing and Urban Development
26 Federal Plaza, Room 3532
New York, NY 10278-0068
Telephone (212) 264-1290 or 1-800-496-4294
Fax (212) 264-9829 • TTY (212) 264-0927

For Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia

MID-ATLANTIC OFFICE (Wanda_Nieves@hud.gov)

Fair Housing Enforcement Center
U.S. Department of Housing and Urban Development
The Wanamaker Building
100 Penn Square East
Philadelphia, PA 19107-9344
Telephone (215) 656-0662 or 1-888-799-2085
Fax (215) 656-3419 • TTY (215) 656-3450

For Alabama, the Caribbean, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee:

SOUTHEAST/CARIBBEAN OFFICE
(Gregory_L._King@hud.gov)

Fair Housing Enforcement Center
U.S. Department of Housing and Urban Development
Five Points Plaza
40 Marietta Street, 16th Floor
Atlanta, GA 30303-2806
Telephone (404) 331-5140 or 1-800-440-8091
Fax (404) 331-1021 • TTY (404) 730-2654

For Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin:

MIDWEST OFFICE (Barbara_Knox@hud.gov)

Fair Housing Enforcement Center
U.S. Department of Housing and Urban Development
Ralph H. Metcalfe Federal Building
77 West Jackson Boulevard, Room 2101
Chicago, IL 60604-3507
Telephone (312) 353-7776 or 1-800-765-9372
Fax (312) 886-2837 • TTY (312) 353-7143

For Arkansas, Louisiana, New Mexico, Oklahoma, and Texas:

SOUTHWEST OFFICE (Thurman G. Miles@hud.gov or Garry_L._Sweeney@hud.gov)

Fair Housing Enforcement Center
U.S. Department of Housing and Urban Development
801 North Cherry, 27th Floor
Fort Worth, TX 76102
Telephone (817) 978-5900 or 1-888-560-8913
Fax (817) 978-5876 or 5851 • TTY (817) 978-5595

For Iowa, Kansas, Missouri and Nebraska:

GREAT PLAINS OFFICE (Robbie_Herndon@hud.gov)

Fair Housing Enforcement Center
U.S. Department of Housing and Urban Development
Gateway Tower II
400 State Avenue, Room 200, 4th Floor
Kansas City, KS 66101-2406
Telephone (913) 551-6958 or 1-800-743-5323
Fax (913) 551-6856 • TTY (913) 551-6972

For Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming:

ROCKY MOUNTAINS OFFICE (Sharon_L._Santoya@hud.gov)

Fair Housing Enforcement Center
U.S. Department of Housing and Urban Development
633 17th Street
Denver, CO 80202-3690
Telephone (303) 672-5437 or 1-800-877-7353
Fax (303) 672-5026 • TTY (303) 672-5248

For Arizona, California, Hawaii, and Nevada:

PACIFIC/HAWAII OFFICE (Charles_Hauptman@hud.gov)

Fair Housing Enforcement Center
U.S. Department of Housing and Urban Development
Phillip Burton Federal Building and U.S. Courthouse
450 Golden Gate Avenue
San Francisco, CA 94102-3448
Telephone (415) 436-8400 or 1-800-347-3739
Fax (415) 436-8537 • TTY (415) 436-6594

For Alaska, Idaho, Oregon, and Washington:

NORTHWEST/ALASKA OFFICE (Judith_Keeler@hud.gov)

Fair Housing Enforcement Center
U.S. Department of Housing and Urban Development
Seattle Federal Office Building
909 First Avenue, Room 205
Seattle, WA 98104-1000
Telephone (206) 220-5170 or 1-800-877-0246
Fax (206) 220-5447 • TTY (206) 220-5185

If after contacting the local office nearest you, you still have questions – you may contact HUD further at:

U.S. Department of Housing and Urban Development
Office of Fair Housing and Equal Opportunity
451 7th Street, S.W., Room 5204
Washington, DC 20410-2000
Telephone (202) 708-0836 or 1-800-669-9777
Fax (202) 708-1425 • TTY 1-800-927-9275

Privacy Act of 1974 (P.L. 93-579)

Authority: Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, (P.L. 100-430).

Purpose: The information requested on this form is to be used to investigate and to process housing discrimination complaints.

Use: The information may be disclosed to the United States Department of Justice for its use in the filing of pattern or practice suits of housing discrimination or the prosecution of the person who committed the discrimination where violence is involved; and to state or local fair housing agencies which administer substantially equivalent fair housing laws for complaint processing.

Penalty: Failure to provide some or all of the requested information will result in delay or denial of HUD assistance.

Disclosure of this information is voluntary.

For further information call the Toll-free Fair Housing Complaint Hotline 1-800-669-9777.
Hearing Impaired persons may call (TDD) 1-800-927-9275.

ATTACHMENT A

1. HOPE Fair Housing Center
202 W. Willow Ave, Suite 203
Wheaton, IL 60187
(630) 690-6500
2. Fair Housing Center of Central Indiana
445 N Pennsylvania Street #811
Indianapolis, IN 46204
(317) 644-0673
3. Jennifer Arzillo



ATTACHMENT B

1. Carol Stream Crossings Apartments

535 Thornhill Drive
Carol Stream, IL 60188
DuPage County

2. Brookdale on the Park Apartments

1652 Brookdale Road
Naperville, IL 60563
DuPage County

3. Green Trails Apartment Homes

2800 Windsor Drive
Lisle, IL 60532
DuPage County

4. Algonquin Square Apartment Homes

2400 Millbrook Drive
Algonquin, IL 60102
McHenry County

5. Farmington Lakes Apartment Homes

2000 Farmington Lakes Drive
Oswego, IL 60543
Kendall County

6. Main Street Village Apartments

5504 Town Center Drive
Granger, IN 46530
St. Joseph County

7. Maple Knoll Apartments

500 Bigleaf Maple Way
Westfield, IN 46074
Hamilton County

ATTACHMENT C

INTRODUCTION

Jennifer Arzillo, HOPE Fair Housing Center (“HOPE”), and the Fair Housing Center of Central Indiana (“FHCCI”) (collectively, “Complainants”) jointly bring this Complaint against Marquette Management, Inc. (“Marquette” or “Respondent”), a real estate management company, for its systemic discrimination on the basis of familial status, in violation of the Fair Housing Act (“FHA”), 42 U.S.C. § 3601 *et seq.*¹

As described in greater detail below, Respondent strictly enforces a two-person per bedroom occupancy policy at a number of its apartment complexes in Illinois and Indiana. Respondent enforces its policy regardless of the size or configuration of the apartment unit, the size of the unit’s bedrooms or other living areas, or any other relevant factor that HUD requires housing providers to consider in determining appropriate occupancy limitations. Further, Respondent’s maximum occupancy policy is more restrictive than occupancy limitations imposed by applicable local law, which would allow more than two persons per bedroom to live in a number of its floorplans. At one of its properties, for example, Algonquin Square Apartment Homes in Algonquin, Illinois, Respondent offers a two-bedroom floorplan that is over 1350 square feet and has a den (in addition to two, large bedrooms), yet Respondent insists that no more than four occupants can live in that apartment. Respondent’s restrictive policy operates both to exclude and limit the number of families with children who can live at Respondent’s properties and, accordingly, discriminates against and has a discriminatory adverse impact on families with children.

PARTIES

Complainant **Jennifer Arzillo** lives in Glendale Heights in DuPage County, Illinois. She is married and has three young children. In February 2017, Ms. Arzillo attempted to rent a two-bedroom apartment owned and managed by Respondent in Carol Stream, Illinois, but Respondent refused to rent it to her because she had three children.

Complainant **HOPE Fair Housing Center** (“HOPE”) is a private, non-profit corporation with a principal office in Wheaton, Illinois. HOPE works to create greater housing opportunities for all and, specifically, to ensure that everyone has the chance to live in housing of their choice that is free from discrimination on the basis of all protected characteristics, including familial status. HOPE accomplishes these goals through education, outreach, training, advocacy, and enforcement. HOPE serves DuPage, Kane, and parts of Cook County, as well as 28 other counties in Northern and North Central Illinois. HOPE received Ms. Arzillo’s initial complaint against Respondent, advised her of her rights under the FHA, and initiated the investigation of Respondent’s properties that resulted in the instant Complaint.

Complainant **Fair Housing Center of Central Indiana** (“FHCCI”) is a private, non-profit fair housing organization whose principal office is located in Indianapolis, Indiana. FHCCI’s mission is to ensure equal housing opportunities and eliminate housing discrimination

¹ Because each Complainant’s complaint involves the same Respondent, challenges the same policy, and involves allegations of a systemic pattern and practice of discrimination in two states within this Region, Complainants have elected to file a joint complaint at the regional level. In similar circumstances, HUD has previously allowed complainants to file multi-jurisdictional complaints at the regional office for the sake of efficiency.

through advocacy, enforcement, education, and outreach. To achieve its goals, FHCCI provides education programs, conducts trainings, and engages in other activities to increase fair housing knowledge among the public. FHCCI also conducts fair housing investigations and assists individuals and communities who have been impacted by unlawful housing discrimination. Through its investigation here, FHCCI confirmed that Respondent enforces its discriminatory occupancy policies at its properties in Indiana.

Founded in 1983, **Marquette Management, Inc.**, (“Marquette” or “Respondent”) is a real estate property management company based in Naperville, Illinois. It is the property management arm of the Marquette Companies. Marquette currently manages 26 properties, and over 11,000 units, in Illinois, Indiana, Michigan, Minnesota, and Texas. As the property management agent, Marquette is, at minimum, responsible for the enforcement of the two-person per bedroom occupancy policy at the properties at issue in this Complaint.

In addition to Marquette, this Complaint is intended to be filed against any other subsidiary or division of Marquette, or any affiliated or related entity, that owns and/or manages any of the properties named or referred to in this Complaint or that is otherwise responsible for implementing, maintaining, and/or enforcing the challenged occupancy policy at these properties.

LEGAL FRAMEWORK AND FACTUAL BACKGROUND

Although HUD has advised that a “two-person per bedroom” occupancy policy may be reasonable in some circumstances, for decades HUD has made clear that it will not determine compliance with the FHA “based solely on the number of people permitted in each bedroom.” Occupancy Standards Notice of Statement of Policy, 63 Fed. Reg. 70256–01, 70257 (Dec. 18, 1998). Far from being a bright-line rule or safe haven for housing providers, a two-person per bedroom policy violates the FHA where it is rigidly and arbitrarily applied. In fact, HUD specifically identifies a two-person per bedroom occupancy policy that would prevent “a family of five who applied to rent an apartment with two large bedrooms and spacious living areas” as an example of a policy for which a charge of discrimination would be warranted. *Id.* Further, HUD has warned that any “non-governmental restriction” on occupancy (such as Respondent’s occupancy policy) will be carefully scrutinized “to determine whether [the policy] operates unreasonably to limit or exclude families with children.” *Id.* Instead of adopting strict and inflexible occupancy standards, HUD specifically instructs housing providers to consider a number of factors in developing appropriate occupancy policies, such as “the number and size of sleeping areas or bedrooms and the overall size of the dwelling unit.” *Id.*

Respondent ignores HUD’s guidance and instead enforces the same two-person per bedroom occupancy policy at its properties in Illinois and Indiana, regardless of the size of its floorplans, the size of the bedrooms, the requirements imposed by local and municipal codes, or any other factors. Under similar circumstances, HUD has issued charges of discrimination against housing providers for enforcing a two-person per bedroom occupancy policy, particularly where, the occupancy policy at issue was more restrictive than applicable local occupancy codes. *See, e.g., Sec’y v. Draper and Kramer, Inc.*, 2006 WL 2848628 (HUDALJ Sept. 21, 2006) (HUD charge of discrimination alleging that respondents’ no more than two-person per bedroom policy was unreasonable, which resulted in a consent order); *Sec’y v. Insignia Fin. Grp., Inc.*, 1997 WL 768229 (HUDALJ Dec. 12, 1997) (HUD charge of discrimination alleging that respondents’

refusal to rent a two-bedroom unit to a couple with three minor children constituted unlawful discrimination under the FHA, which resulted in a consent order); *Sec'y v. Peppertree Apartments*, 1994 WL 681054 (HUDALJ Nov. 10, 1994) (consent order defining “unreasonable” occupancy policy as a policy that is more restrictive than local occupancy code and enjoining respondents from adopting such a policy). Federal courts have also found that two-person per bedroom occupancy policies, like Respondent’s policy, can have a discriminatory disparate impact on families with children in violation of the FHA. *See, e.g., Gashi v. Grubb & Ellis Prop. Mgmt. Servs., Inc.*, 801 F. Supp. 2d 12 (D. Conn. 2011).

Each Complainant’s interactions with Respondent, and the specific facts supporting Complainants’ allegations and establishing Respondent’s discrimination, are described in greater detail below.

Jennifer Arzillo

In early 2017, Jennifer Arzillo was looking to downsize from a house to an apartment for financial reasons. Accordingly, she began searching for available apartments in her area (DuPage County, Illinois) for her family of five, which included her wife, their six-year-old child, and their five-year-old twins. Because her children were young and did not need much space, and because she needed to keep expenses down, Ms. Arzillo specifically searched for two-bedroom apartment units. To ensure that the space would be adequate for her family, Ms. Arzillo limited her search to two-bedroom apartments that were near or exceeded 1,000 square feet overall and had a large enough bedroom for her small children to share.

In the course of her search, Ms. Arzillo came across **Carol Stream Crossings Apartment Homes** (“Carol Stream”) in Carol Stream, Illinois. Carol Stream is an apartment complex that consists of one-and two-bedroom floorplans. It is managed by Respondent.

Carol Stream checked all of the boxes on Ms. Arzillo’s wish list for housing. First, Carol Stream had spacious two-bedroom floorplans ranging from 965-1030 square feet overall and with large bedrooms. Additionally, it offered a number of amenities—advertising itself as a “luxury” complex that included a pool, gym, in-home washer and dryer, modern appliances and fixtures, and a host of other features that were attractive to Ms. Arzillo’s family. Carol Stream was also in a convenient location for Ms. Arzillo and in her preferred county (DuPage) and school district. Finally, the rental prices for two-bedroom units were within her rental budget. Based on all of these factors, Ms. Arzillo decided that she wanted to rent an apartment at Carol Stream, subject to an in-person visit at the property.

In February 2017, Ms. Arzillo contacted Carol Stream by telephone to set up an appointment to view available apartments and initiate the application process. She spoke to an agent and/or employee of Respondent who confirmed that two-bedroom apartments were, in fact, available for rent. In her discussion with Respondent’s agent about renting a two-bedroom apartment, Ms. Arzillo informed Respondent’s agent that she would be living in the apartment with her spouse and three children.

When the agent learned that Ms. Arzillo had three children, she immediately informed Ms. Arzillo that her family could not live at Carol Stream. Ms. Arzillo explained that her children were young and would have no problem sharing a bedroom. Ms. Arzillo pressed for a reason, but the agent only repeated that a family of five could not live in a two-bedroom

apartment. The agent provided no justification for Respondent's position. Ms. Arzillo asked if she could at least come and look at the apartment, but Respondent's agent refused to even schedule an appointment for her.

Believing that she had been discriminated against on the basis of her familial status, Ms. Arzillo contacted HOPE Fair Housing Center for assistance.

HOPE Fair Housing Center

After receiving Ms. Arzillo's complaint, HOPE launched an investigation to confirm Respondent's policy at Carol Stream. As part of its investigation, in late-February 2017, a HOPE tester contacted Carol Stream posing as a married woman seeking a two-bedroom apartment for her family of two adults and three children. Similar to what Respondent conveyed to Ms. Arzillo, Respondent's employee told HOPE's tester that Carol Stream was unable to rent a two-bedroom apartment to more than four people because of "fair housing laws." In other words, no more than two people per bedroom could live in an apartment at Carol Stream.

After confirming Carol Stream's policy, HOPE conducted additional investigation regarding Carol Stream's floor plans, the size and configuration of two-bedroom apartments at Carol Stream, and any governmental occupancy restriction in the area that may be relevant to Carol Stream's policy. HOPE's investigation confirmed that far from being any requirement imposed by fair housing laws as Respondent represented to HOPE's tester, Respondent's policy at Carol Stream was unduly restrictive and discriminatory.

Carol Stream offers two-bedroom units that are around, or exceed, 1000 square feet. Its large, open floor plans have spacious bedrooms and common areas. These floor plans are attached as Exhibit 1.

The City of Carol Stream's occupancy standards are set by the 2012 International Property Maintenance Code ("the 2012 IPMC"), a universal, model code that imposes occupancy limitations by room. Per the 2012 IPMC, each bedroom in a dwelling is required to have a minimum of 70 square feet, and every bedroom occupied by more than one person must contain a minimum of 50 square feet per occupant. 2012 IPMC § 404.4.1. The minimum area requirements for living rooms and dining rooms under the 2012 IPMC are the same for units occupied by four people as they are for units occupied by five people and thus could not justify Respondent's two-person per bedroom occupancy restriction at Carol Stream. Specifically, under the IPMC, a unit housing three to five occupants must have a living room that is at least 120 square feet and a dining room that is at least 80 square feet. 2012 IPMC at Table 404.5² As demonstrated by Table 1, each of Respondent's two-bedroom apartments at Carol Stream could lawfully accommodate five occupants under local occupancy code, yet Respondent refused to rent apartments at Carol Stream to couples with three children, like Ms. Arzillo and HOPE's tester, claiming that they were somehow prohibited by law from doing so.

² All of Carol Stream's floorplans meet this minimum requirement for their combined living and dining room area.

Table 1.

Floor Plan Name	Total sq. ft. (advertised)	Bedroom 1 sq. ft.	# of Occupants Allowed in Bedroom 1	Bedroom 2 sq. ft.	# of Occupants Allowed in Bedroom 2	Total Number Occupants Permissible Under IPMC
Pine	965	180	3	110	2	5
Spruce	1025-1070	180	3	130	2	5
Hawthorne	1030	154	3	144	2	5

After confirming that Respondent’s policy was unreasonable in light of both the overall size of the units at Carol Stream and local occupancy standards, HOPE initiated a broader investigation of Respondent to ascertain whether Respondent enforced the same policy at other properties it managed in HOPE’s service area. As part of this broader investigation, HOPE conducted additional testing at the following properties managed by Respondent between March and July 2017: **Brookdale on the Park Apartments** (Naperville, Illinois); **Green Trails Apartment Homes** (Lisle, Illinois); **Algonquin Square Apartment Homes** (Algonquin, Illinois); and **Farmington Lakes Apartment Homes** (Oswego, Illinois). Again, HOPE’s testers posed as prospective tenants looking for housing for a couple with three children. Uniformly, Respondent’s agents told HOPE’s testers that there could be no more than two people per bedroom at Respondent’s properties, confirming Respondent’s bright-line occupancy policies. Multiple agents further told HOPE’s testers that the occupancy rule was inflexible, the issue was out of their hands, and even that their policy was somehow mandated by law. Respondent’s representations are wrong.

After completing these tests, HOPE conducted additional investigation and research to determine whether Respondent’s policy at these properties was unreasonable in light of the factors that HUD expressly directs housing providers to consider in setting occupancy standards—for example, the size and configuration of the unit and the application of any local occupancy codes. HOPE’s additional investigation confirmed that Respondent’s policy is unnecessarily rigid and restrictive at these properties. Each of these properties offer large floor plans that can accommodate more than Respondent’s policy would allow under applicable local code.

For example, **Brookdale on the Park Apartments** (“Brookdale on the Park”) advertises “spacious” apartments and has floorplans that can accommodate more than two persons per bedroom under its local code, including one floorplan that consists of two levels and contains large, open floor space. (The floor plans are attached as Exhibit 2). Its largest two bedroom floorplan (1100 feet overall) is the same square footage as the apartment floorplan that it advertises as a three bedroom unit. *See* Exhibit 3. Yet Respondent’s agents at this property told HOPE’s tester that her family of five could not rent any two-bedroom apartment there.

Like the City of Carol Stream, the City of Naperville (where Brookdale on the Park is located) has adopted the 2012 IPMC as its local building code. As explained above, the 2012 IPMC requires that every bedroom occupied by more than one person must contain a minimum

of 50 square feet per occupant. As demonstrated in Table 2, Respondent enforces a strict two-person per bedroom policy for Brookdale on the Park and even erroneously told a tester that the policy was mandated by the City of Naperville, despite having a number of two-bedroom floor plans at that property that can lawfully accommodate five (or more) occupants under Naperville’s occupancy code (the 2012 IPMC).

Table 2.

Floor Plan Name	Total sq. ft. (advertised)	Bedroom 1 sq. ft.	# of Occupants Allowed in Bedroom 1	Bedroom 2 sq. ft.	# of Occupants Allowed in Bedroom 2	Total Number Occupants Permissible Under IPMC
Willow	830	169	3	105	2	5
Pine	950	157	3	107	2	5
Maple	1100	174	3	150	3	6

HOPE’s testing of Respondent’s policy in another jurisdiction in which Respondent operates—**Green Trails Apartment Homes** in Lisle, Illinois—produced the same results. Lisle has adopted the BOCA Property Maintenance Code of 1996 (the “1996 BOCA”) as its local building code, which is similar to the above-referenced 2012 IPMC in many respects. Like the 2012 IPMC, the 1996 BOCA requires that every room occupied for sleeping purposes must be at least 70 square feet and have at least 50 square feet of floor area per occupant of that sleeping room. 1996 BOCA § PM-405.3. Also like the 2012 IPMC, the required area space for living rooms, dining rooms, and kitchens are the same for five occupants as they are for four or even three occupants and thus do not prohibit Respondent from allowing five occupants to rent a two-bedroom apartment. Table 3 demonstrates that Respondent has at least two, large floorplans at Green Trails Apartments that can accommodate five occupants under Lisle’s local code. The relevant floor plans are attached as Exhibit 4.

Table 3.

Floor Plan Name	Total sq. ft.	Bedroom 1 sq. ft.	# of Occupants Allowed in Bedroom 1	Bedroom 2 sq. ft.	# of Occupants Allowed in Bedroom 2	Total Number Occupants Permissible Under IPMC
Hampton	924-925	178	3	104	2	5
Dorchester	1079	173	3	142	2	5

Like Carol Stream, Green Trails Apartments does not offer any three bedroom units, so no couple with three kids (or single person with four kids for that matter) could live in the building at all, even if the family could afford to rent an apartment with an additional bedroom.

Finally, HOPE conducted testing at **Algonquin Square Apartment Homes** (“Algonquin Square”) (Algonquin, Illinois) and **Farmington Lakes Apartment Homes** (“Farmington Lakes”) (Oswego, Illinois) and confirmed operation of Respondent’s restrictive two-person per bedroom occupancy policy. Algonquin and Oswego have each adopted versions of the International Property Maintenance Code (2006 and 2009 respectively) that require only that bedrooms contain at least 70 square feet and living rooms contain at least 120 square feet, but do not articulate bright-line standards beyond those minimum floor area requirements. IPMC 2006 & 2009 § 404.4.1. Instead, both codes provide that the “number of persons occupying a dwelling unit shall not create conditions that, in the opinion of the code official, endanger the life, health, safety or welfare of the occupants. IPMC 2006 & 2009 § 404.5. Accordingly, in these jurisdictions there is even greater flexibility to establish inclusive policies that allow families with children full use and enjoyment of available apartments, subject to ensuring that the living arrangement does not create a serious health or safety hazard for any occupant.

Allowing a family of five to occupy a two-bedroom apartment at Algonquin Square does not remotely offend this standard. For example, one of its two bedroom floor plans, the Plumleigh (Exhibit 5), is over 1350 square feet, in fact larger in overall square footage than the three bedroom floorplan Respondent offers at Brookdale on the Park that Respondent would have no problem allowing five individuals to occupy. In addition to two large bedrooms, the Plumleigh has a big living and dining area and an additional den that could be used as a sleeping area, but under Respondent’s policy, no more than four occupants would be permitted in this large unit.

A family of five could similarly reside in Farmington Lakes’ large, two-bedroom apartment units without causing unsafe and unsanitary conditions at the complex. Farmington Lakes, for example, has two, two-bedroom floor plans (Willow and Willow II, Exhibit 6) that each have at least one bedroom that exceeds 150 square feet, has spacious living and dining areas, and could easily accommodate an additional child. The Willow II floorplan is also larger in overall square footage than the three bedroom apartment that Respondent offers at Brookdale on the Park. Yet, under Respondent’s policy, five occupants would be impermissible in the larger unit, but somehow allowed in the smaller one. Such disparities demonstrate that Respondent is not taking into account HUD’s guidance, and the relevant factors it directs providers to consider, in determining its occupancy standards.

In sum, HOPE’s testing confirmed that regardless of the overall size of any particular unit at Respondent’s properties, the size of the bedrooms, the configuration of the unit, the availability of additional habitable sleeping space, or more lenient standards imposed by local occupancy code, Respondent enforces a two-person per bedroom policy and makes no exceptions or allowance for a family consisting of a couple and three children to rent a two-bedroom apartment at these properties under any circumstance.

Fair Housing Center of Central Indiana

During the course of its investigation, HOPE contacted the Fair Housing Center of Central Indiana (“FHCCI”) to similarly investigate Respondent’s properties in Indiana— at **Main Street Village Apartments** (Granger, Indiana) and **Maple Knoll Apartments** (“Maple Knoll”) (in Westfield, Indiana). In March 2017, FHCCI began its investigation of Respondent.

As part of that investigation, FHCCI developed a test profile, instructing its testers to contact Respondent's properties posing as a woman looking to rent a one-bedroom apartment for herself, her husband, and a small (two-year-old) child. FHCCI's testing confirmed that Respondent enforces the same two-person per bedroom policy in Indiana as Ms. Arzillo and HOPE encountered in Illinois, as well as that the policy applies with equal force to one-bedroom apartment units.

For example, when FHCCI's tester contacted **Main Street Village Apartments** to inquire about a one-bedroom apartment for her family of three, Respondent's agent informed the tester that she could not rent a one-bedroom unit to three people. Like other agents of Respondent have informed prospective tenants, Respondent's agent at Main Street Village Apartments invoked the purported requirements of "fair housing laws" as the reason Respondent could not, and would not, rent a one-bedroom apartment to the tester. In doing so, Respondent not only enforced a discriminatory occupancy policy, but it significantly misrepresented applicable law in the process.

As discussed above, the FHA and HUD's guidance on occupancy standards do not set any bright-line per person rules and, in fact, discourage such rules; instead, instructing housing providers to consider a range of factors—including, the specific size of the unit in question—to ensure that the provider is not unreasonably limiting occupancy in a way that makes housing unavailable to families with children. Applying HUD's standards, Main Street Village Apartments has a number of floorplans (both one and two-bedroom) that could accommodate more occupants than Respondent currently allows.

Granger, Indiana is in St. Joseph County, which has adopted the 2000 International Property Maintenance Code ("2000 IPMC"), with some modifications that do not impact the assessment of the number of occupants that are reasonably permitted to occupy housing under the code. For purposes of analyzing the maximum permitted occupancy of any unit or dwelling, the 2000 IPMC does not differ in any material respects from the standards adopted and applied by the jurisdictions that HOPE tested. Specifically, the 2000 IPMC similarly requires that every bedroom occupied by one person shall contain at least 70 square feet of floor area, and every bedroom occupied by more than one person shall contain at least 50 square feet of floor area for each occupant of that bedroom. 2000 IPMC § 404.4.1. Similarly, the minimum area requirements for other living spaces (living rooms, dining rooms, and kitchens) are the same for three occupants as they are for four or five occupants, and Respondent's property in Granger meets those minimum requirements. As illustrated in Table 4 below, Main Street Village Apartments has one-bedroom floor plans that can accommodate up to three occupants and two-bedroom floor plans that can accommodate up to five occupants under applicable local code. The relevant floorplans are attached as Exhibit 7.

Table 4.

Floor Plan Name	Total sq. ft. (advertised)	Total # of Bedrooms in Floorplan	Bedroom 1 sq. ft.	# of Occupants Allowed in Bedroom 1	Bedroom 2 sq. ft.	# of Occupants Allowed in Bedroom 2	Total Number Occupants Permissible Under IPMC
Larkin	764	1	154	3	N/A	N/A	3
Chaucer	834-864	1	158	3	N/A	N/A	3
Pomona	1037	2	150	3	132	2	5
Rockford	1068-1185	2	152	3	140	2	5

Respondent also told FHCCI's tester who contacted **Maple Knoll Apartments** that her family (consisting of a couple and one small child) would not be permitted to rent a one-bedroom apartment unit because of the "two heads per bed" occupancy policy. Respondent's agent even confirmed the availability of a one-bedroom unit that was over 900 square feet, with a bedroom that exceeded 150 square feet, but reaffirmed that she could not rent that large apartment per operation of Respondent's occupancy policy.

Neither Westfield, Indiana nor Hamilton County, where Maple Knoll Apartments is located, appear to have adopted local occupancy standards which, in many ways, provides greater flexibility to housing providers to determine inclusive occupancy standards. However, even using a universal model property code, like the International Property Maintenance Code, as a default benchmark confirms that Respondent's property at Maple Knoll Apartments is unduly restrictive. The 914 square foot one-bedroom floorplan Respondent's agent confirmed was available, the Ivyleaf (Exhibit 8), would permit three occupants under any version or edition of the International Property Maintenance Code cited herein—its bedroom is 154 square feet, it has an additional sitting room that extends from that large bedroom, there is a 156 square foot living area, and the apartment includes a dining room of 108 square feet. A couple with a two-year-old child would certainly have sufficient space to live in this apartment, and Respondent has no justification for rigidly capping the number of occupants permitted at two.

Again, using the IPMC as a default, model guidepost to ascertain the reasonableness of Respondent's policy, Maple Knoll has two-bedroom floor plans that could also accommodate more than two persons per bedroom under this default, model code. These floorplans are attached as (Exhibit 9). Indeed, as demonstrated in the table below, under virtually any iteration of the IPMC cited herein, Maple Knoll has a two-bedroom floorplan that could accommodate up to 6 occupants.³

³ Maple Knoll also has a three bedroom apartment, the Three Flower, that has at least one bedroom that could accommodate up to three occupants alone. See Exhibit 10.

Table 5.

Floor Plan Name	Total sq. ft. (advertised)	Bedroom 1 sq. ft.	# of occupants allowed in Bedroom 1	Bedroom 2 sq. ft.	# of occupants allowed in Bedroom 2	Total number occupants permissible under IPMC
The Sugar	1106	154	3	143	2	5
Seibold	1198	168	3	168	3	6

Given that Complainants have identified no law or rule that could possibly justify Respondent restricting these large floor plans to a maximum of two persons per bedroom, Respondent's policy is unnecessarily restrictive.

* * *

As described in greater detail above, HOPE's and FHCCI's respective investigations confirmed that Respondent enforces a strict and unreasonable maximum occupancy policy at the tested properties in Illinois and Indiana. Respondent enforces this policy without regard to any of the factors that HUD has instructed housing providers to consider—such as the size of the unit, the configuration of the unit, or any limitations imposed by the local occupancy code. Respondent's policy has a predictable and disparate impact on families with children, as families with children are significantly more likely to be affected by policies that limit the number of people who can live in an apartment unit.

There is no legitimate business necessity for Respondent's policy. While preventing overcrowding is a legitimate concern for housing providers, local occupancy codes are similarly enacted to prevent overcrowding and protect the health and safety of occupants of a dwelling. As detailed above, Respondent's policy often operates to be more restrictive than local occupancy codes. Certainly, conforming their policy to the limitations imposed by the local occupancy code for families with children would be a less discriminatory alternative to the current, across-the-board two-person per bedroom policy, as it would increase the number of families with children eligible to rent units in its communities. In the absence of any legitimate business reason for its systemic practices, Respondent's rigid occupancy policy violates the FHA.

INJURY CAUSED BY RESPONDENT

As a result of Respondent's discriminatory conduct, Ms. Arzillo has suffered, and continues to suffer emotional distress, embarrassment, humiliation, and the deprivation of her fair housing rights. Respondent refused to allow Ms. Arzillo to rent, or even view and apply for, desirable housing, for which she was qualified to rent, because her family has three children.

HOPE and FHCCI have also been directly harmed by Respondent's actions. HOPE and FHCCI had to devote significant resources to investigate and counteract Respondent's discriminatory occupancy policy. In order to investigate Respondent's conduct, for example,

HOPE and FHCCI had to invest significant time to coordinating their testing strategy, which confirmed discrimination at all properties tested. In order to do so, HOPE and FHCCI had to divert their scarce resources from other activities, such as education and outreach, client counseling, and community development. Further, Respondent's discriminatory practices have frustrated HOPE's and FHCCI's respective missions of ensuring that all people within their jurisdictions have equal access to housing opportunities regardless of familial status. That Respondent's agents have misinformed numerous individuals inquiring about housing that these policies are somehow mandated by law has further frustrated HOPE's and FHCCI's respective missions and requires them to do even more work to correct this misinformation and educate the public about appropriate occupancy standards.

As Respondent's practices are ongoing, Complainants' injuries continue to accrue.

Executed on 1/30/2018


Anne V. Houghtaling
Anne Houghtaling for
HOPE Fair Housing Center

Executed on 1/29/2018



Amy Nelson
Fair Housing Center of Central Indiana

Executed on 1/30/2018


Jennifer Arzillo

EXHIBIT

1

Exhibit 1 - Carol Stream Crossings Apartments - Hawthorn

HAWTHORNE

Two Bedroom, 1.5 Bath
1,030 SQ. FT.

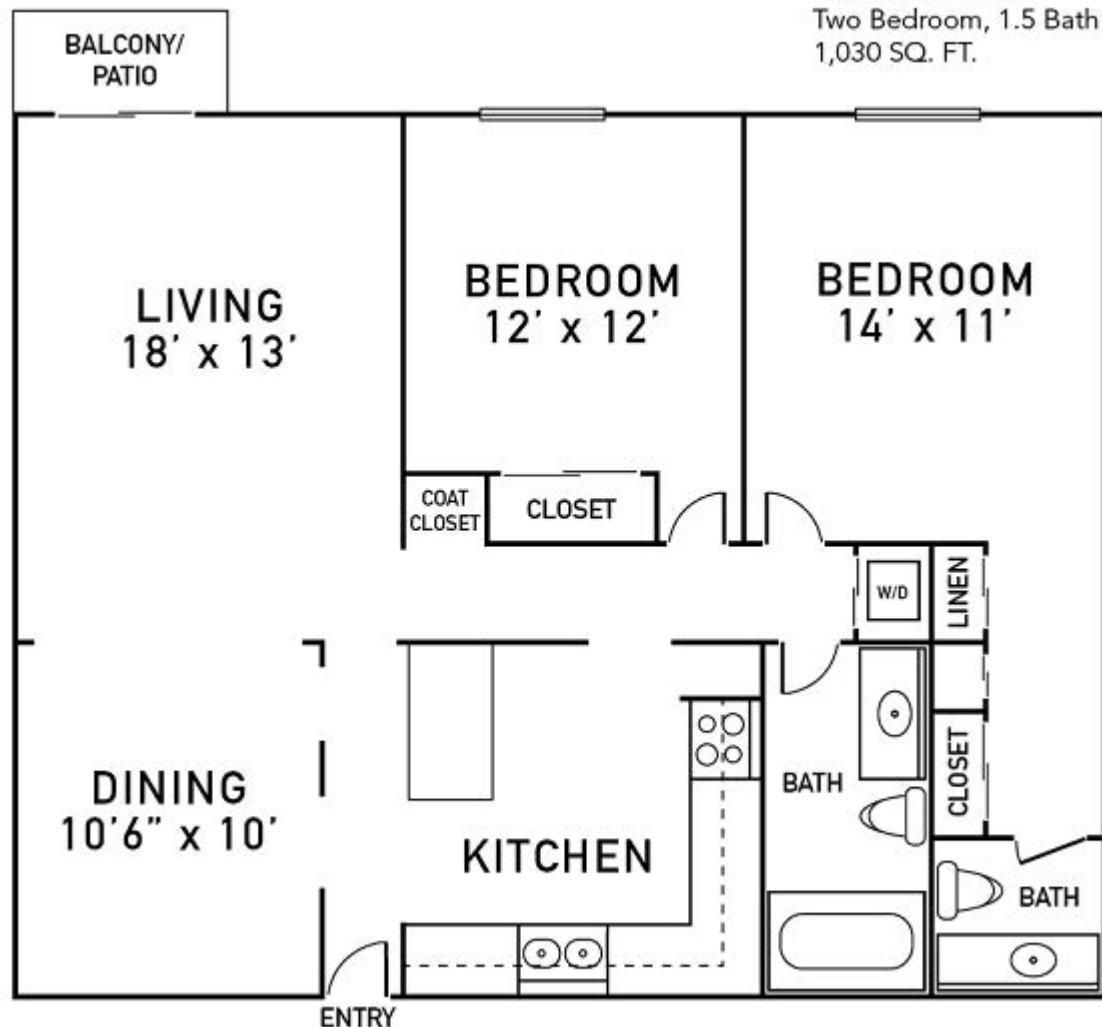


Exhibit 1 - Carol Stream Crossings Apartments - Pine

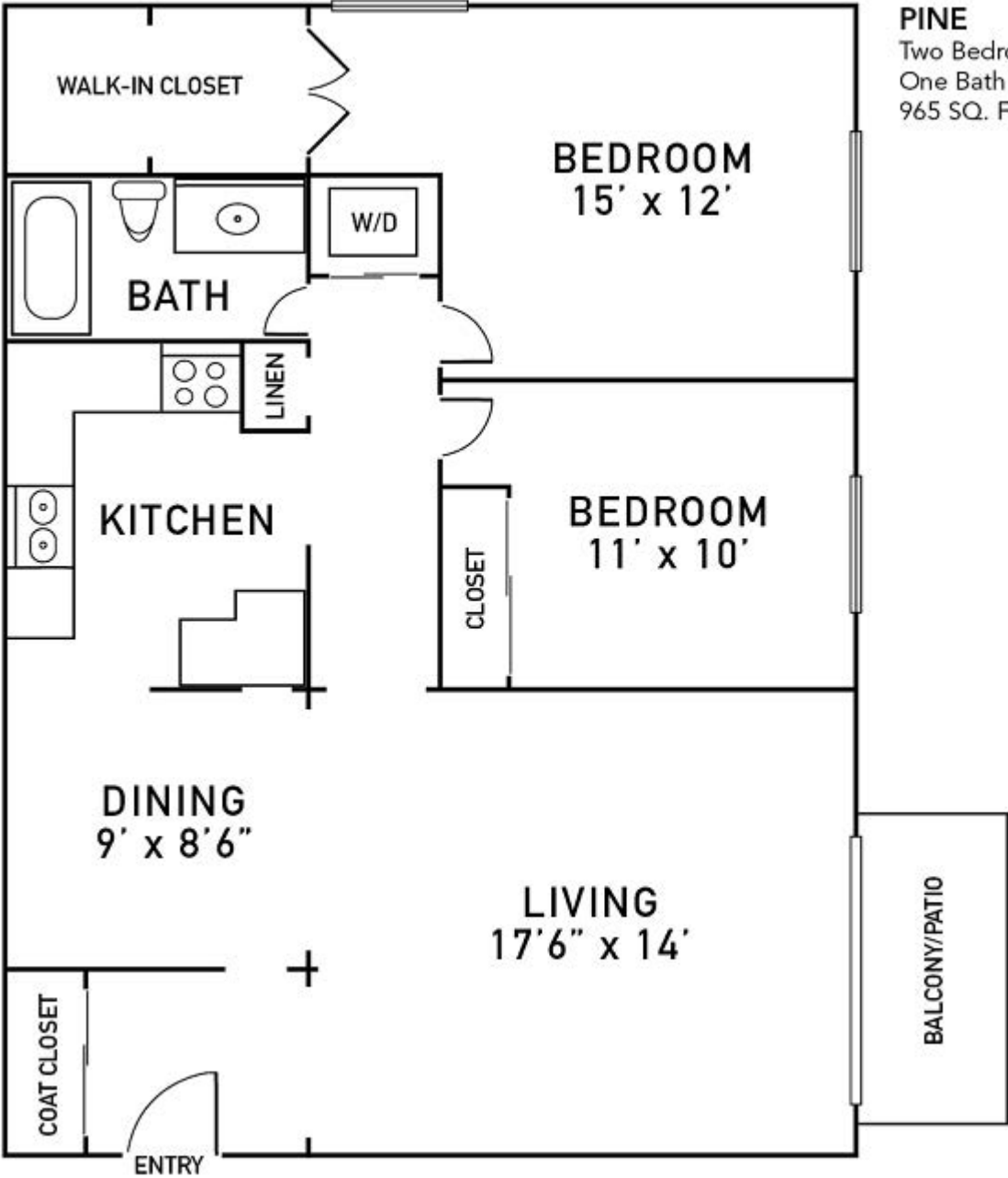


Exhibit 1 - Carol Stream Crossings Apartments - Spruce

SPRUCE

Two Bedroom

Two Bath

1,025 SQ. FT.



EXHIBIT

2

Exhibit 2 - Brookdale on the Park Apartments - Maple



Exhibit 2 - Brookdale on the Park Apartments - Pine

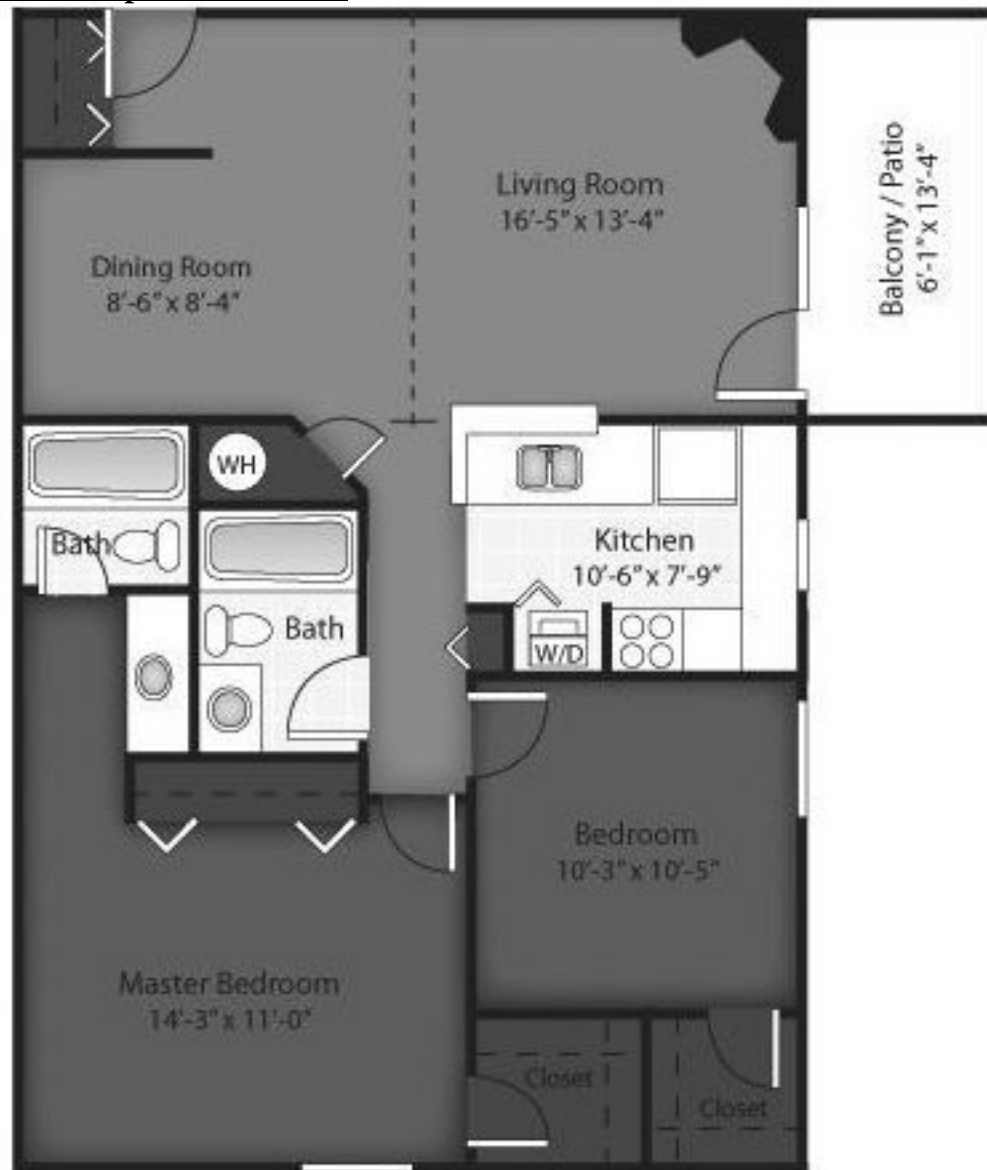
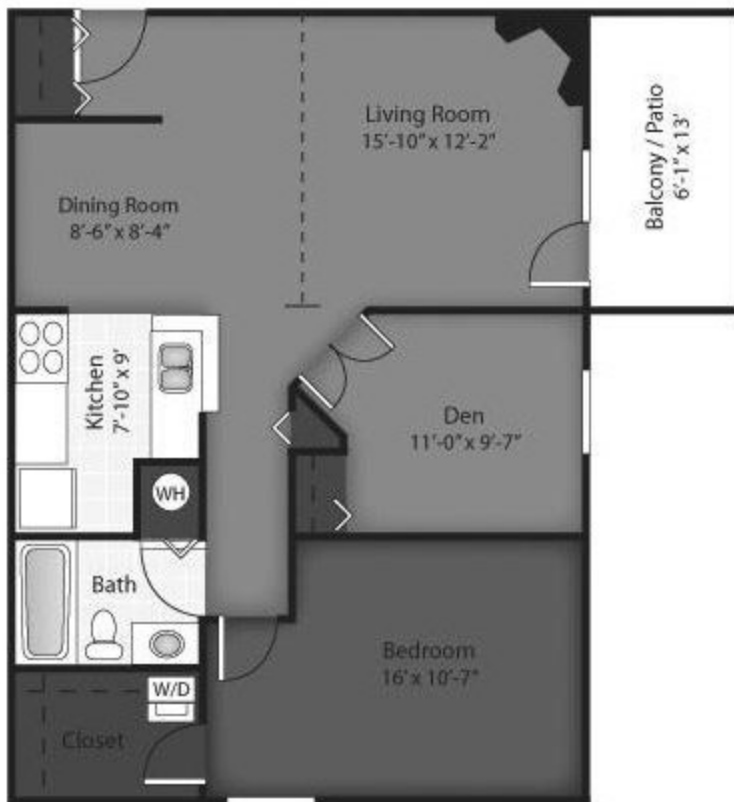


Exhibit 2 - Brookdale on the Park Apartments - Willow



EXHIBIT

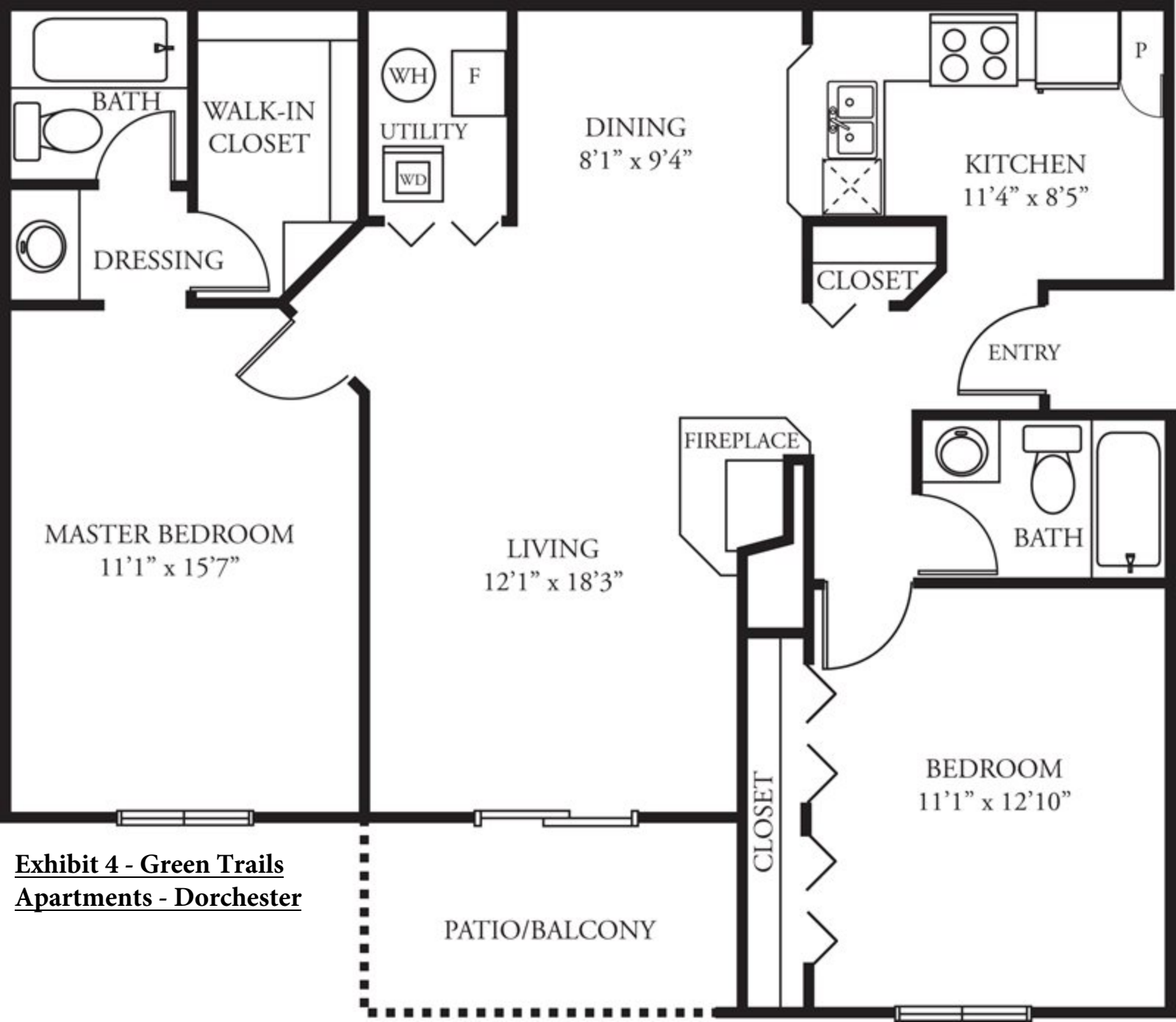
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**Exhibit 3 - Brookdale on the Park
Apartments - Birch**

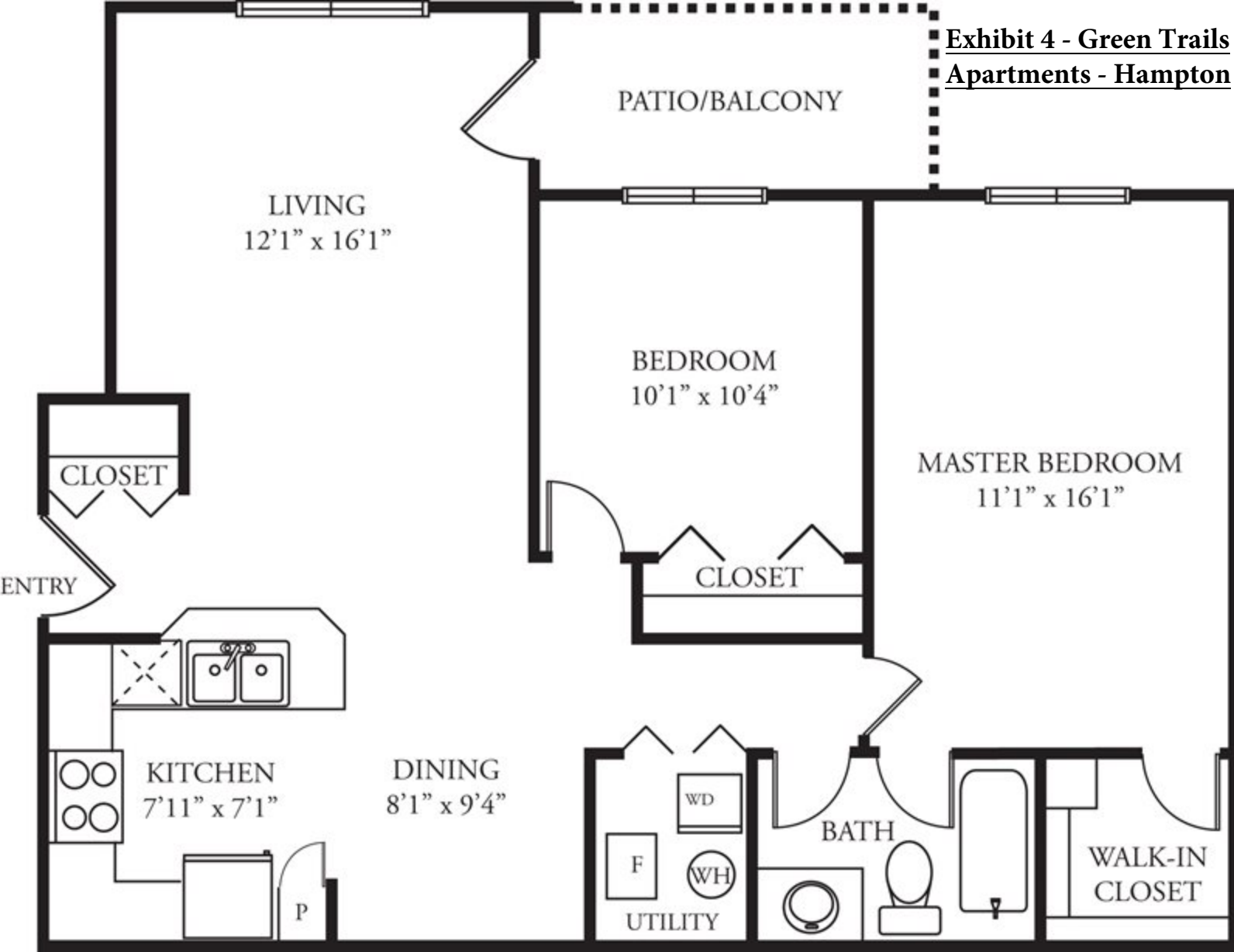
EXHIBIT

4



**Exhibit 4 - Green Trails
Apartments - Dorchester**

**Exhibit 4 - Green Trails
Apartments - Hampton**



EXHIBIT

5



Exhibit 5 - Algonquin Square Apartments - Plumleigh

EXHIBIT

6

Exhibit 6 - Farmington Lakes Apartments - Willow

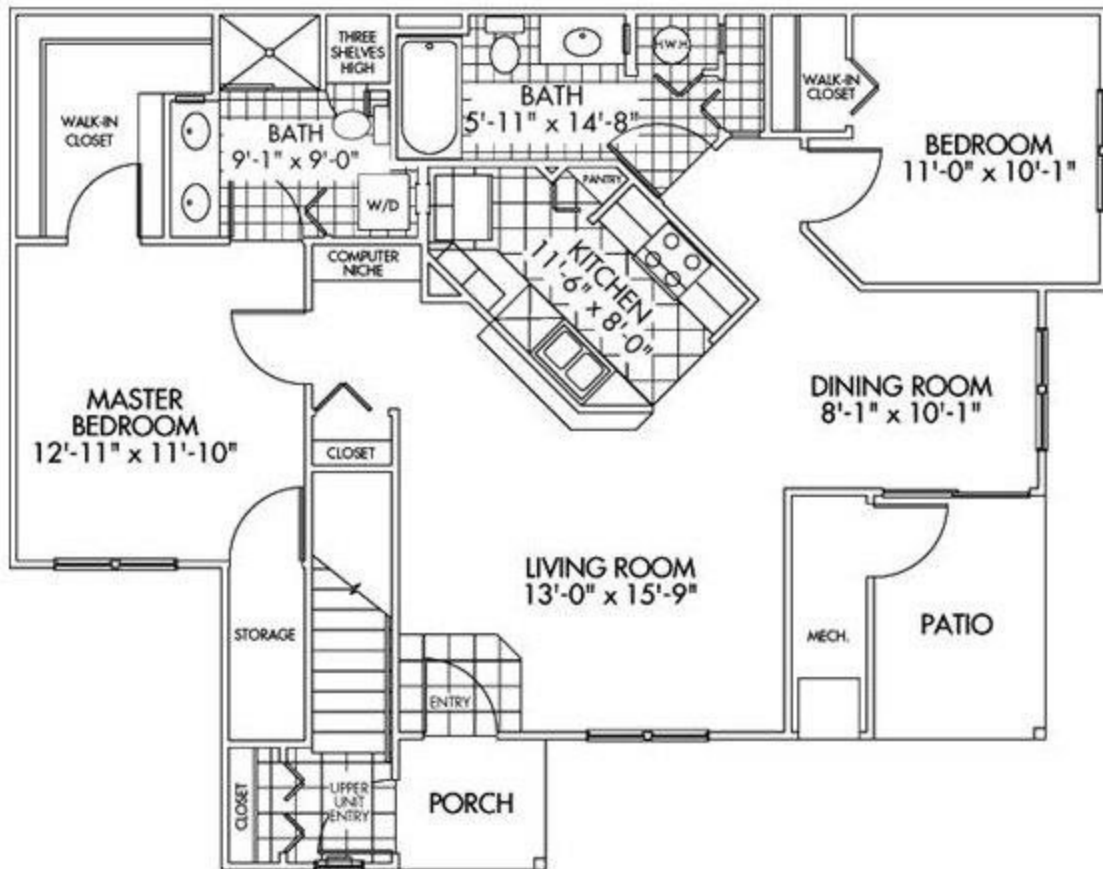
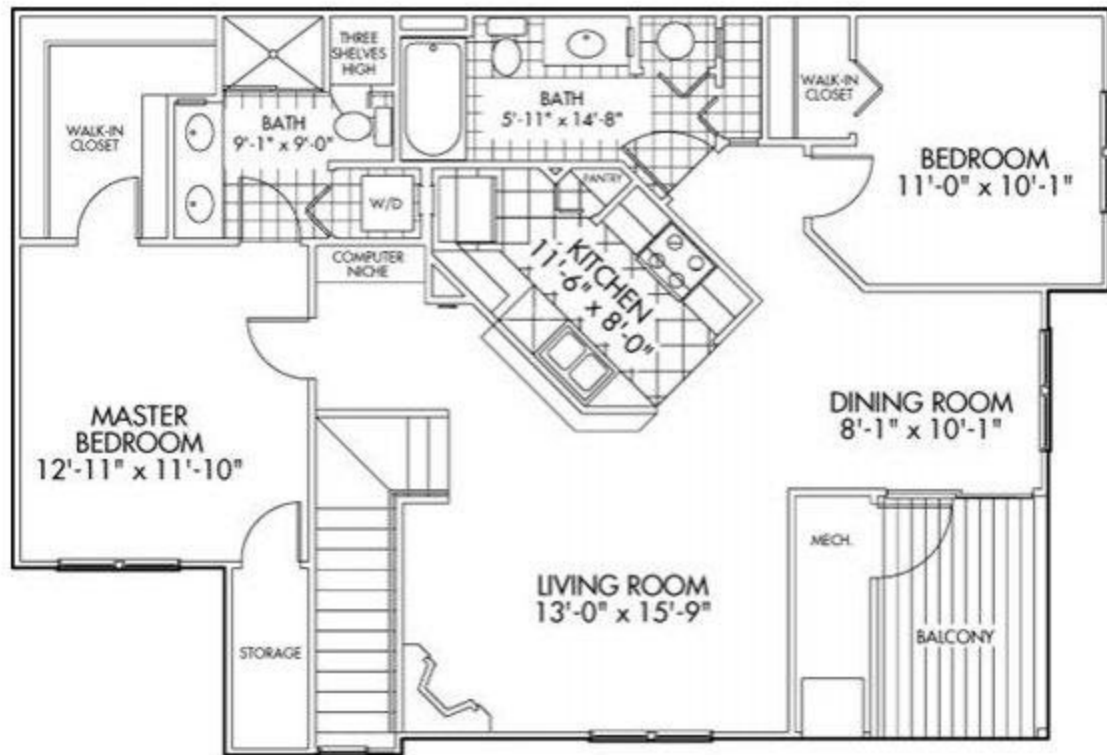


Exhibit 6 - Farmington Lakes Apartments - Willow II



EXHIBIT

7



Exhibit 7 - Main Street Village
Apartments - Chaucer

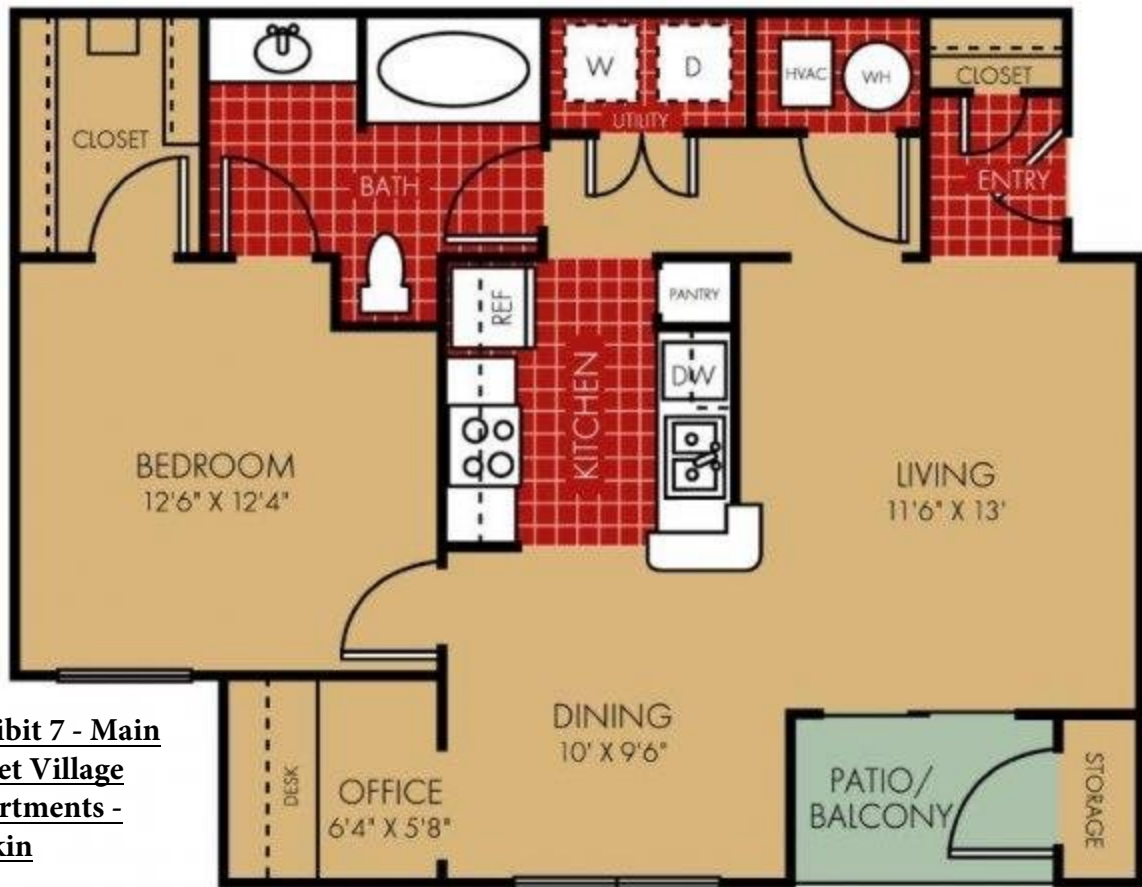


Exhibit 7 - Main Street Village Apartments - Pamona



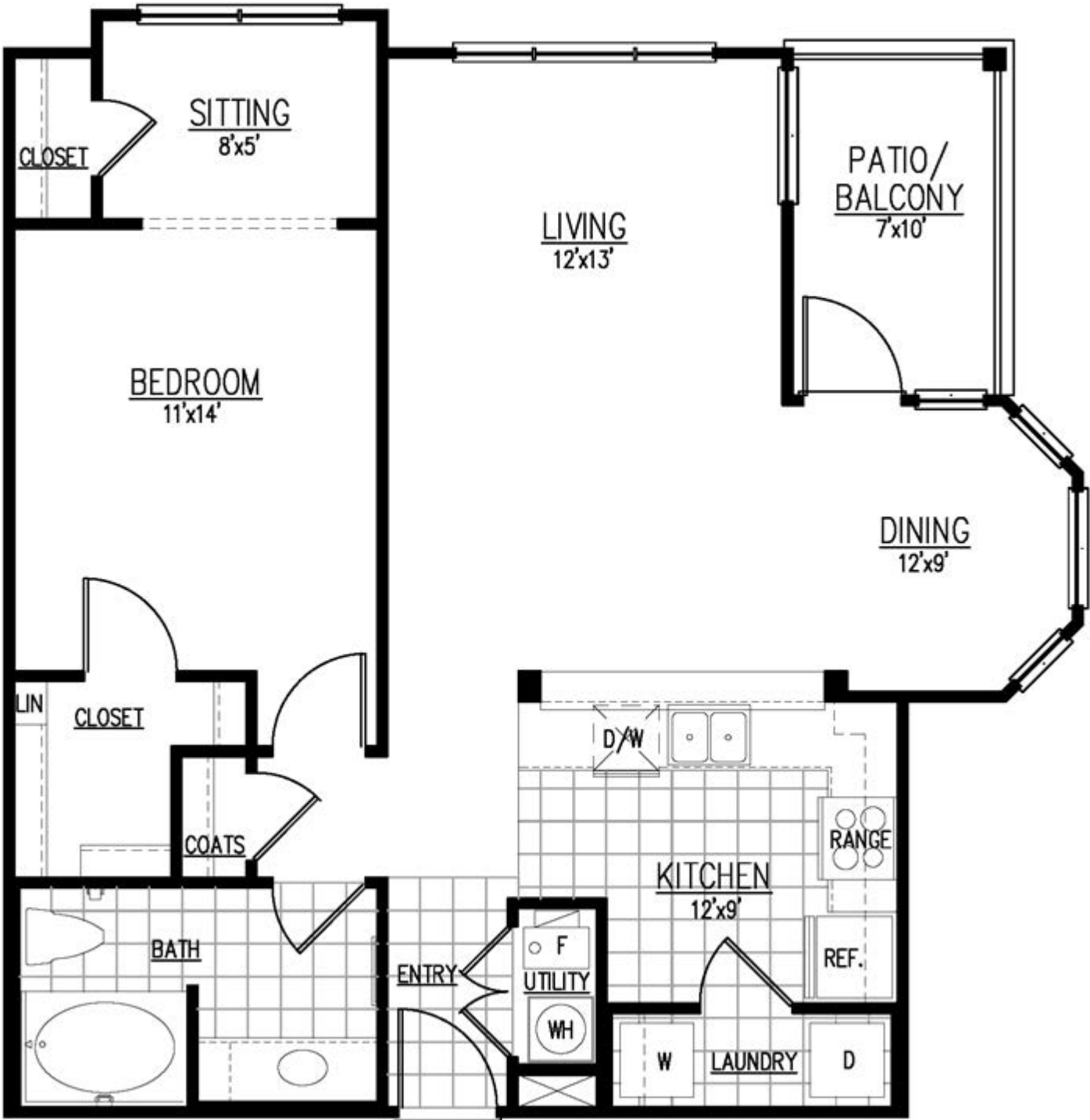
Exhibit 7 - Main Street Village
Apartments - Rockford



EXHIBIT

8

Exhibit 8 - Maple Knoll Apartments - Ivyleaf



EXHIBIT

9

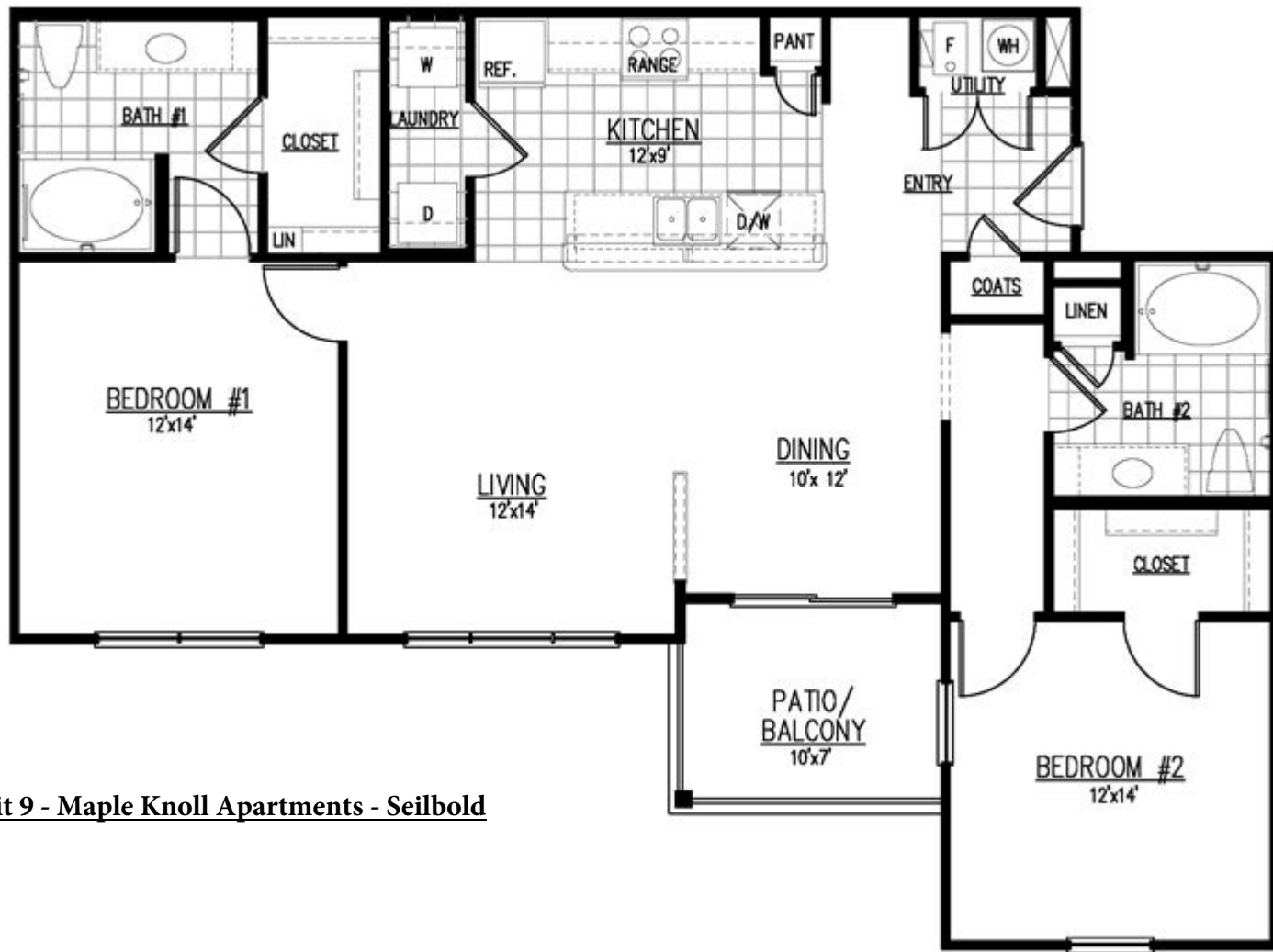


Exhibit 9 - Maple Knoll Apartments - Seibold

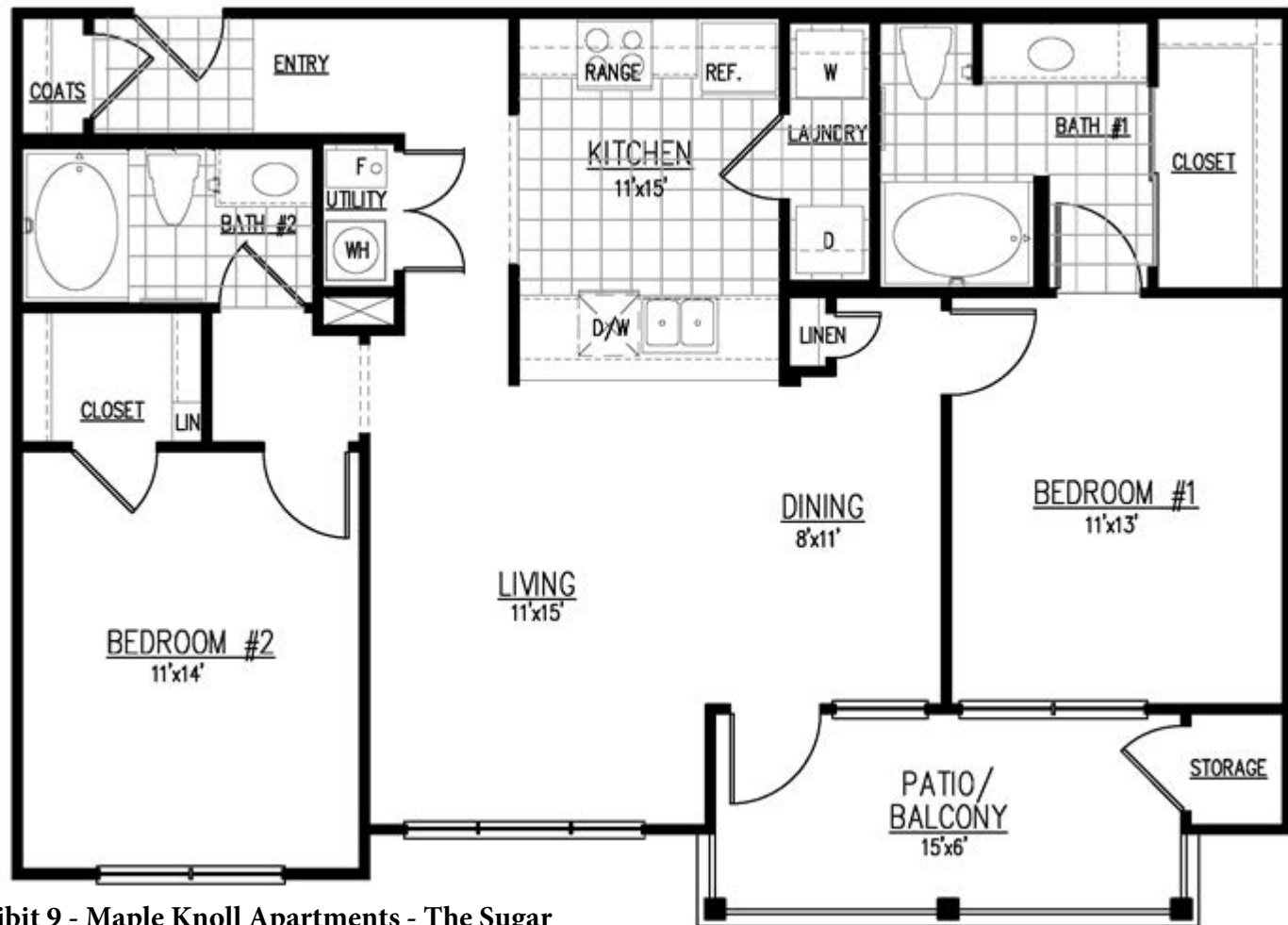


Exhibit 9 - Maple Knoll Apartments - The Sugar

EXHIBIT

10

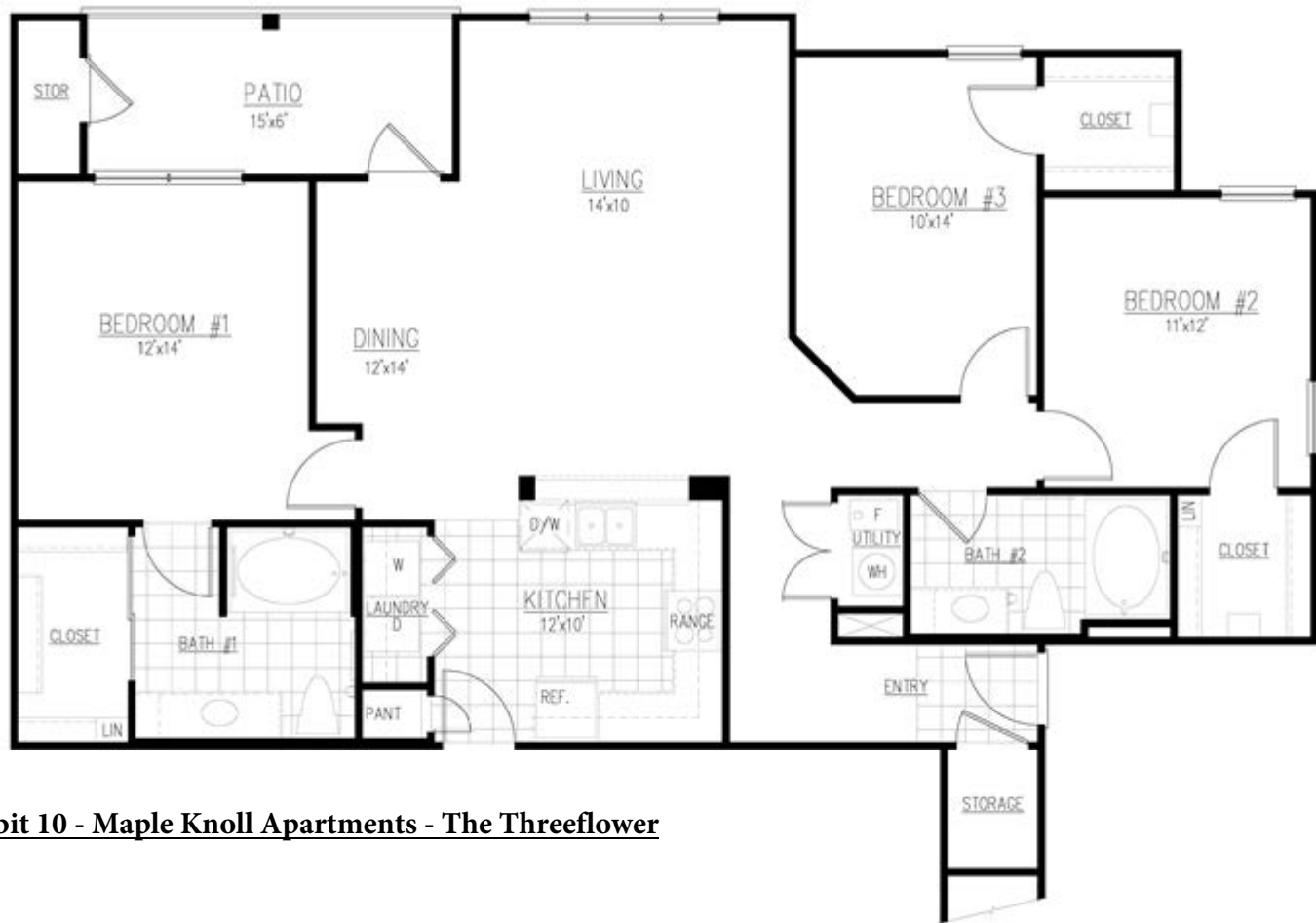


Exhibit 10 - Maple Knoll Apartments - The Threeflower