

SETTLEMENT AGREEMENT

This Settlement Agreement is entered into by and between the Fair Housing Center of Central Indiana (“FHCCI”), and Long Beach Properties, LLC, Construction Management & Design, Inc., Alan R. Collins, Chris L. Collins, Property Management & Maintenance, LLC, J.S.L. LLC, J.S.L. & Associates, David Wells and James Lenczowski (collectively, “Respondents”).

I. PURPOSES OF THE SETTLEMENT AGREEMENT

WHEREAS Respondents are the developer, manager, owner, designer, architect, and/or builder of Long Beach Cove Apartments, owned by Long Beach Properties, LLC (“Subject Property”).

WHEREAS, the FHCCI conducted an investigation of the Subject Property during the period 2019 to 2020. The FHCCI’s investigation of the Subject Property included on-site visits, reviews of publicly available plans and certificates of occupancy for sites, and a review of images and information available online. FHCCI identified what it alleges to be violations of the accessibility requirements of the Fair Housing Amendments Act (“the Act”), 42 U.S.C. §§ 3604(f)(1), (f)(2) and (f)(3)(C) which are applicable to multifamily dwellings designed and constructed for first occupancy after March 13, 1991, including the Subject Property, and the Americans with Disabilities Act, Title III, 42 U.S.C. §12181 et seq. which applies to areas that serve the general public including the rental office and public parking areas constructed after January 26, 1993;

WHEREAS, FHCCI has prepared and is ready to file a complaint in federal district court alleging multiple violations of the Act’s accessibility requirements by Respondents at the Subject Property;

WHEREAS, Respondents have employed ADA Consultants of Indiana, an independent third-party consultant, to conduct a survey for compliance with the Act’s design and construction requirements at the Subject Property and the results of that survey have been reviewed and considered by FHCCI and Respondents in reaching this Settlement Agreement;

WHEREAS, FHCCI has alleged that a significant number of covered dwelling units in Respondents’ properties are not located on accessible routes and cannot feasibly be located on

accessible routes. In addition, many covered dwelling units which may feasibly be located on an accessible route lack accessible and usable sinks in bathrooms and/or do not have the required clear floor space at toilet, tub and outside the swing of the bathroom door and have other violations of the accessibility requirements.

WHEREAS, FHCCI and Respondents desire to resolve these claims voluntarily and without the need for expensive and possibly protracted litigation and, to that end, they have agreed to the following terms by which the FHCCI's allegations are fully and finally resolved.

II. RELEVANT PROVISIONS OF LAW

The Fair Housing Act

A. The FHA provides that, for residential buildings with an elevator consisting of four or more dwelling units, all units that are designed and constructed for first occupancy after March 13, 1991, are "covered multifamily dwellings" and must include certain basic features of accessible and adaptive design to make such units accessible to or adaptable for use by a person with a disability. 42 U.S.C. §§ 3604(f)(3)(C) and (f)(7)(A).

B. The FHA provides that, for non-elevator residential buildings with four or more dwelling units, all ground-floor units that are designed and constructed for first occupancy after March 13, 1991, are "covered multifamily dwellings" and must include certain basic features of accessible and adaptive design to make such units accessible to or adaptable for use by a person with a disability. 42 U.S.C. §§ 3604(f)(3)(C) and (f)(7)(B).

C. The accessible and adaptive design provisions of the FHA require that for covered multifamily dwellings: (i) the public use and common use portions of such dwellings are readily accessible to and usable by persons with a disability; (ii) all the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by persons with a disability using wheelchairs; (iii) all premises within such dwellings contain the following features of adaptive design: (I) an accessible route into and through the dwelling; (II) light switches, electrical outlets, thermostats, and other environmental controls in accessible locations; (III) reinforcements in bathroom walls to allow later installation of grab bars; and (IV) usable kitchens and bathrooms such that an individual using a wheelchair can maneuver about

the space. 42 U.S.C. § 3604(f)(3)(C). These features are referred to herein as the “Accessible Design Requirements.”

D. For the purposes of this Settlement Agreement, the parties agree that the Subject Property was designed and constructed for first occupancy after March 13, 1991, and therefore all the units in buildings with elevators and the ground-floor units in non-elevator buildings at the Subject Property are “covered multifamily dwellings” within the meaning of the FHA, 42 U.S.C. §§ 3604(f)(7)(A) and (B). As such, those units and the public and common use areas including the accessible pedestrian routes at the Subject Property must comply with the Accessible Design Requirements of 42 U.S.C. § 3604(f)(3)(C).

The Americans with Disabilities Act Title III

E. The ADA, and the ADA Standards for Accessible Design, ADA Accessibility Guidelines for Buildings and Facilities, 28 C.F.R. pt. 36, app. A (the “ADA Standards”), that have been issued by the U.S. Department of Justice to implement the design and construction requirements of Title III of the ADA, also require that all “public accommodations” designed and constructed for first occupancy after January 26, 1993, and the goods, services, facilities, privileges, advantages, or accommodations of those public accommodations, be readily accessible to and usable by persons with disabilities in accordance with certain accessibility standards promulgated under that Act. 42 U.S.C. §§ 12182(a) and 12183(a)(1). A rental or sales office for an apartment or condominium is a “public accommodation” under the ADA. 42 U.S.C. § 12181(7)(E).

F. For the purposes of this Settlement Agreement, the parties agree that the leasing offices for the Subject Property were designed and constructed for first occupancy after January 26, 1993, and therefore the leasing offices and the facilities and privileges provided at those offices such as bathrooms and public parking are required to be designed and constructed in accordance with the standards promulgated under the ADA. Only the leasing offices at the Subject Property that are public accommodations are subject to the ADA under this Settlement Agreement. Common use areas and other amenities that are not public accommodations are subject to the

FHA, but not the ADA, under this Settlement Agreement. This Settlement Agreement does not apply to employee-only spaces or commercial-only spaces at the Subject Property.

III. TERMS OF THE SETTLEMENT AGREEMENT

Based upon the foregoing recitals, the Parties agree as follows:

A. Definitions

1. “Guidelines” means the Fair Housing Accessibility Guidelines, 56 Fed. Reg. 9472 (1991).
2. “Design Manual” means the Fair Housing Act Design Manual (1998).
3. “Subject Property” means the property identified in the recitals, above.
4. “The Parties” means the FHCCI and Respondents, as described in the recitals, above.
5. “Punch List” means a list of agreed modifications and retrofits for the Subject Property incorporated herein by reference as Exhibit A and enforceable as part of this Settlement Agreement.
6. “The Standards” are the Guidelines and the Design Manual.

B. Respondents and each of their officers, employees, agents, successors and assigns and all other persons in active concert or participation with them agree that they will not discriminate based on disability as prohibited by the Fair Housing at 42 U.S.C. Sections 3604(f)(1) – (3) and the Americans with Disabilities Act, 42 U.S.C, Sections 12182(a) and 12181 (a)(1) and further agree that they will comply with the accessibility provisions as described above in all properties designed and constructed for first occupancy after the Effective Date of this Agreement.

C. The Effective Date of this Agreement is the date on which the last party to the Agreement executes the Agreement. The Parties agree that this Settlement Agreement may be executed in one or more counterparts, each one of which shall be deemed to be an original, equally admissible in evidence, but all of which shall constitute one and the same instrument. Electronic or facsimile signatures may be deemed to be an original signature for all purposes.

D. The Term of this Agreement is four years from the Effective Date.

IV. RETROFITS AT THE SUBJECT PROPERTY

A. Design and Construction Requirement Application

At the Subject Property, all ground-floor units in all non-elevator buildings are “covered units” within the meaning of the Act. Each covered unit at the Subject Property, and the public and common-use areas at the Subject Property, are subject to the design and construction requirements of the Act.

B. Responsible Entity

Long Beach Properties, LLC is responsible for all expenses for any architectural design, surveys, inspections, structural changes, construction, procurement, and all expenses relating to retrofitting and remediation at the Subject Property.

C. Retrofitting of Public and Common Use Areas at the Subject Property

1. Respondents agree to take all appropriate steps to make the public and common use areas of the Subject Property comply with the Standards as described in this Agreement.

2. The Parties have agreed to a Punch List of specific remedial actions that will provide accessibility in the public and common use areas of the Subject Property. The terms of the Punch List are attached as Attachment A and are incorporated herein by reference and enforceable as part of this Settlement Agreement.

3. The Parties have agreed to a Plan for remediation that provides the time frame for completion of the Punch List actions for the public and common use areas of the Subject Property. The terms of the Plan are attached as Attachment B and are incorporated herein by reference and enforceable as part of this Settlement Agreement.

4. All remedial actions in the public and common use areas of the Subject Property shall be completed within 48 months from the Effective Date.

5. The Parties recognize that, during the process of retrofitting the public and common use areas of the Subject Property for full compliance with the Standards, occasionally certain issues may arise which are cost-prohibitive or otherwise difficult to implement. FHCCI will not unreasonably withhold, delay or condition approvals to vary compliance on specific items in the Punch Lists or alterations described herein in the event the Respondents make a reasonable request for a variation.

D. Retrofitting of Dwelling Units at Villas

1. Units at Villas (“Villas”) are units located at Long Beach Cove Apartments which are located in buildings with four, six, eight, or ten units and where there is an exterior entrance to each unit.

2. For Villas, Long Beach Properties, LLC agrees to take steps to make the exterior of the Villa units compliant with the requirements for Accessible Units under the ICC ANSI A117.1-09, Chapter 11 as specified in the Punch List, Appendix A. Further, Long Beach Properties, LLC agrees that upon the request of any tenant either already residing in a unit or leasing a Villa unit for the first time, it will make reasonable modifications to the interior of the unit at the request of the tenant or applicant if the modification is necessary due to a disability within thirty (30) days from the date of the request. These modifications may include the addition of accessible hardware throughout the unit, an accessible route into and through the entire unit and out the back door to the patio or yard, increasing clear floor space to the extent feasible at the lavatory, toilet and bathing facility, changing the sink to provide an accessible forward approach, and installation of grab bars in one or more bathroom.

E. Additional Modifications Upon Request and Notice to Residents

1. In addition to the actions described in Section VI. C. and D., the Long Beach Properties, LLC agrees to provide funds for a Modification Fund to increase accessibility for any resident of the

Subject Property. To pay for those modifications, Long Beach Properties, LLC agrees to deposit in an interest-bearing account the sum of \$20,000 for each property to pay for modifications to individual units or to the exterior of the Subject Property at the request of any resident in addition to the alterations described above.

2. Long Beach Properties, LLC will send a written notice to each leaseholder of a dwelling unit at the Subject Property within thirty (30) days from the Effective Date informing the leaseholders at the Subject Property of the potential availability of structural modifications to the interior or exterior of individual units and notifying the leaseholder that he or she may, on account of his or her own disability or the disability of a household member, have those modifications performed without charge on an expedited basis within 30 days by making a written request. These modifications may be made without cost to any resident. Each new approved applicant for a unit at the Subject Property during the Term of the Agreement shall be notified in writing at the time of leasing that she or he may request that structural modifications needed because of a disability be made to his/her unit. Respondents retain the right to verify the non-apparent disability status and/or disability-related need of a resident, occupant, or visitor if a requested modification is outside the scope of the Act's accessibility requirements.

3. At the expiration of the Term of this Agreement, any funds remaining in the Modification Fund shall be donated to a fund established by FHCCI to increase awareness about accessibility requirements in housing in Indiana in an amount not to exceed \$50,000, which is cumulative for all involved entities. Any funds in excess of \$50,000 remaining in the Modification Fund at the expiration of the Agreement will revert back to Long Beach Properties, LLC and other contributing entities.

F. Inspection of Alterations Performed

1. Respondents agree to inform FHCCI in writing of the completion of the agreed upon alterations from the Punch List at the Subject Property within thirty (30) days of the completion of the alterations. Respondents agree that an independent qualified professional, agreed to by the parties, will conduct an on-site inspection of the agreed upon alterations within sixty (60) days of the completion of the alterations and to prepare a written report describing the alterations, including photographs and measurements, and whether or not the alterations comply with the modifications agreed to by the Parties on the Punch List. The report shall be provided to FHCCI when it is completed. If this inspection indicates that any of the required alterations have not been made as specified herein, Respondents agree to correct any deficiencies within thirty (30) days of that notice or the time allowed by the original timeline, whichever is later, and provide documentary and photographic evidence of the correction of such alterations to FHCCI upon request.

G. Reports of Compliance

Annually, for the term of this Agreement, Respondents shall provide to the FHCCI a report summarizing its progress in complying with the terms of this Agreement. The report shall include, at a minimum, the following:

1. A list of remedial actions in the public and common use areas at each Subject Property that have been completed during the previous year.
2. A list of addresses for all Villas that have had corrective actions completed during the previous year including the actions which have been taken.
3. A list of all requests, including the address, for modification of individual units and the date on which the corrective action was taken.

4. The name of the entity who is responsible for compliance with the Agreement.

H. Sale or Transfer of an Ownership Interest in the Subject Property

1. Transfer of Subject Property

The sale, foreclosure, or any other transfer of ownership, in whole or in part, whether voluntary or involuntary, of any of the Subject Property shall not affect Respondents' continuing obligation to retrofit any Subject Property as specified in this Agreement. Should Respondents or any of its components sell or transfer ownership of any Subject Property, in whole or in part, or any portion thereof, prior to the completion of the retrofits specified in this Agreement, Respondents will at least thirty (30) days prior to completion of the sale or transfer: (a) provide to each prospective buyer written notice that the Subject Property is subject to this Order, including specifically Respondents' obligations to complete required retrofit work and to allow inspections, along with a copy of this Agreement; and (b) provide to the FHCCI, by email and first-class mail, written notice of the intent to sell or transfer ownership, along with a copy of the notice sent to each buyer or transferee, and each buyer's or transferee's name, address, and telephone number.

V. COMPENSATION

A. Settlement Payment

Respondents agree to make a Settlement Payment, no later than ten (10) days after the Effective Date, in the amount of Two Hundred Seventy-Five Thousand Dollars (\$275,000) as compensation to FHCCI, including attorneys' fees, costs, and litigation expenses, if applicable. This amount represents the cumulative payment for all involved entities. Payment will be made by check payable to Relman Colfax PLLC, 1225 19th St. NW, Suite 600, Washington, DC 20036.

VI. RELIEF IN THE PUBLIC INTEREST

1. Respondents agree to adhere to all federal, state, and local fair housing laws.

2. Within thirty (30) days of the effective date of this Agreement, Respondents agree to display and maintain HUD Fair Housing posters, form HUD-928.1A (6/2011), in the main rental area at every property owned or managed by Respondents and at any new property opened during the term of this agreement. Posters may be obtained from HUD's website at: http://portal.hud.gov/hudportal/documents/huddoc?id=Fair_Housing_Poster_Eng.pdf

3. Respondents' officers and Counsel shall attend, and require all its agents (including every person who provides customer service or rental transactions at a Subject Property) to attend a fair housing training session offered by the Fair Housing Center of Central Indiana (FHCCI) or an entity approved by the FHCCI, within 180 days from the Execution Date, and then annually for the term of this Agreement. Each training session must be at least two hours in length and include the basics of fair housing laws including accessibility requirements, reasonable accommodations and reasonable modifications. Respondents and their agents may participate in this training remotely. If the trainings are not provided by FHCCI, Respondents shall provide proof of completion to FHCCI by email within 30 days of each training.

4. Within 30 days from the Execution Date, Respondents shall develop a Reasonable Accommodation/Modification policy which explains the procedure for making a request and identifies one or more individuals who may accept such requests. Respondents shall submit its policy to the FHCCI for review and approval. Within 30 days from FHCCI's approval, Respondents shall distribute the policy to all tenants and will provide a copy of the policy to all new tenants during the term of this Agreement.

5. Within 60 days from the Execution Date, all documents provided to tenants or prospective tenants in connection with the rental of dwellings, including but not limited to application forms, leases, and rules and regulations, shall continue to include the following statement: "We are an equal housing opportunity provider. We do not discriminate on the basis of race, color, religion, national origin, sex, familial status, or disability."

6. Respondents shall maintain records demonstrating compliance with each of these terms, including certificates of attendance at fair housing training and make those records available for inspection by the FHCCI upon written request with at least 14 days notice.

VI. GENERAL PROVISIONS

A. General Release of All Claims

1. In exchange for, and in consideration of, the payments, alterations, benefits, and other commitments described herein, FHCCI hereby fully releases, acquits, and forever discharges Long Beach Properties, LLC and all Respondents and each of their predecessors, successors and assigns, parent corporations, subsidiary corporations, affiliated corporations, and the officers, directors, shareholders, partners, employees, managers, members, representatives, insurers, attorneys and agents, past and present, from any and all claims, liabilities, causes of action, damages, costs, attorneys' fees, expenses, and compensation whatsoever, of whatever kind or nature, in law, equity or otherwise, whether known or unknown, vested or contingent, suspected or unsuspected, that FHCCI may now have or have ever had, relating to the Subject Property, and FHCCI hereby specifically waives and releases all such claims, including, but not limited to, those arising under the FHAA and any and all state or local statutes, ordinances, or regulations governing the accessibility of residential units and common areas at the Subject Property including, without limitation, any state law claim pursuant to the laws of the state of Indiana, as well as all claims arising under federal, state, or local law involving any claim related to the claims described in this Agreement. Similarly, Respondents shall fully release, acquit, and forever discharge FHCCI from any and all claims, liabilities, causes of action, damages, costs, attorneys' fees, expenses, and compensation whatsoever, of whatever kind or nature, in law, equity or otherwise, whether known or unknown, vested or contingent, suspected or unsuspected, that Respondents may now have or have ever had relating to the Subject Property and the allegations in this Agreement, and hereby specifically waive and release all such claims.

2. FHCCI agrees that the execution of this Settlement Agreement shall extinguish all claims and shall be a full, complete, and final disposition and settlement of all claims against Respondents relating to the Subject Property and all matters and issues which were alleged, or

could have been alleged, were raised, or could have been raised, in any other manner related to the Subject Property, including, but not limited to, claims relating to the FHAA and any similar federal, state, or local law.

B. Miscellaneous Provisions

1. Binding Effect

This Settlement Agreement shall be binding upon and inure to the benefit of the Parties hereto, their respective heirs, successors, and assigns.

2. Enforceability

Any action to enforce the provisions of this Agreement shall be through an action brought in the state of Indiana. The Parties agree to use good faith and their best efforts to resolve any dispute in the interpretation of or compliance with this Agreement without resort to litigation.

3. Controlling Law

This Settlement Agreement shall be construed in accordance with the laws of the State of Indiana, without giving effect to conflict of law principles. Any action in regard to this Settlement Agreement or arising out of its terms and conditions shall be instituted and litigated in the State of Indiana.

4. Costs and Expenses

Except as specifically provided for herein, Respondents shall bear their own attorneys' fees and costs arising out of and/or relating to this matter.

5. Deadlines

All deadlines and dates for performance by the Parties under this Settlement Agreement may be extended or modified by written agreement between the Parties.

6. Severability

Each provision and term of this Settlement Agreement shall be interpreted in such a manner as to be valid and enforceable. In the event any provision or term of this Final Settlement Agreement is determined to be, or is rendered, invalid or unenforceable, all other provisions or terms of this Final Settlement Agreement shall remain unaffected to the extent permitted by law.

7. Notice to the Parties

All notices required or permitted hereunder shall be in writing and shall be served on the Parties at the addresses or e-mail addresses set forth below. If sent by overnight delivery, notice shall be deemed delivered one (1) business day after deposit with the nationally recognized overnight courier. Personal delivery shall be deemed delivered upon the date the same was actually delivered. E-mail notices shall be deemed delivered the day the same was sent, provided that the sender has retained a copy and the same was properly sent.

- a. Notices to FHCCI shall be sent to:
Sara Pratt, Relman Colfax PLLC, 1225 19th Street NW, Suite 600,
Washington, DC 20036, email: spratt@relmanlaw.com and Amy Nelson,
Fair Housing Center of Central Indiana, 445 N. Pennsylvania Street, Suite
811, Indianapolis, IN 46204, email: ANelson@fhcci.org.

- b. Notices to Respondents shall be sent to:
Long Beach Properties, LLC
1906 Oak Drive
Plymouth, Indiana 46563

8. Entire Agreement

This Settlement Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior agreements, understandings, expectations, and discussions of or between the parties, whether oral or written, and there are no representations or other agreements between the Parties respecting the subject matter hereof.

Agreed to by the Parties as indicated by the signatures appearing below:

Fair Housing Center of Central Indiana


By Amy Nelson

Date: 5/4/2021

Name: Amy Nelson

Its: Executive Director

Long Beach Properties, LLC

By:  _____

Date: 6-15-21

Name: Alan R Collins, as Manager

Its: Manager

Other signatories as necessary

By: _____

Date: _____

Name: _____

Its: _____

EXHIBIT A

PUNCH LIST

ATTACHMENT A REMEDIAL ACTIONS

Long Beach Properties, LLC will take the following remedial actions in all public and common use areas in all Subject Property consistent with the requirements of the Fair Housing Act Design Manual and Guidelines and, as appropriate, the Americans with Disabilities Act, Title III.

1. Provide an accessible route from pedestrian arrival areas (parking lots, adjacent public street or bus stop) to each Villa unit as defined in the Agreement.
2. Replace the door hardware on the exterior primary entrance door of all Villa unit with lever hardware.
3. Remove and replace sidewalks to provide an accessible route throughout public and common use areas that includes ANSI compliant slopes, ramps and curb ramps that include a landing and with a slope of no more than 5% at curb cuts intersecting walkways, a level change of no more than ½ inch, flared sides at curb ramps sloped no greater than 10% and designated cross walks across areas as part of an accessible route where vehicular traffic occurs if such a route is reasonably feasible and prudent.
4. Provide at least one accessible route to all common use amenities including but not limited to swimming pools, community rooms, common laundry areas, play grounds, dog parks, picnic tables and fitness centers. For properties where topography makes the creation of an accessible pedestrian route infeasible, a vehicular route will be available with accessible parking at common use amenities.
5. Provide at least one van accessible parking space for every 25 parking spaces provided at each rental office with an access aisle at least 8 feet wide, a curb cut and appropriate signage.
6. Provide at least two percent of the parking spaces available for residents with an access aisle, a curb cut and appropriate signage.
7. Provide at least one accessible parking space, accessible curb cut, and signage at every common use amenity where parking is provided, such as club houses, swimming pools, and playgrounds.

8. Assure that accessible parking spaces are not blocked by vehicles by establishing and enforcing such a policy throughout each property and by providing car blocks where necessary to prevent cars from blocking a 36 inch accessible route.
9. Provide mailboxes for the Subject Property that are within accessible reach ranges and on accessible routes. Placement of additional mailboxes within an accessible reach range and on an accessible route shall be considered compliant.
10. Provide an accessible route to at least one dumpster with accessible hardware if an access gate is present. If the existing terrain prevents the creation of an accessible route from every covered unit at the property, a vehicular route will be provided.
11. Provide accessible hardware and an accessible route from parking into and through the entrance to the rental office.

EXHIBIT B

Exhibit B
Remediation Dates by Property

<u>Entity</u>	<u>Property</u>	<u>Remediation Date</u>
Elwood Real Equities, Inc.	Bison Ridge Estates	Fall 2022 to Summer 2023
Miami Farms, Inc.	Briar Ridge Apartments	Summer 2023
LaPorte Equities, LLC	Briar Wood Apartments	Summer 2023
Long Beach Properties, LLC	Long Beach Cove Apartments	Summer 2023
LaPorte Equities, LLC	Tippe River Downs	Summer 2024
Lakeland Properties, LLC	Lakeland Apartments	Summer 2021
ABCS Properties, LLC	Main Street Center	Fall 2022
Hi-Tec Properties, LLC	Hi-Tec Apartments	Summer 2022
Prairie Ridge Properties, LLC	Prairie Ridge Apts	Summer 2024
Collins Leasing, LLC	Parkview Place (Plymouth Senior Villas)	Summer 2023
Bremen Park Properties, LLC	Bremen Park Apartments	Fall 2022

Collins Leasing, LLC

Plum Street Villas

Summer 2024

Columbia City RE Developers, LLC

Quail Ridge Apartments

Summer 2024

Miami Farms, Inc.

Lakeview Apartments

Summer 2024

