



**THE U.S. DEPARTMENT OF HOUSING
AND URBAN DEVELOPMENT**



TITLE VIII CONCILIATION AGREEMENT

BETWEEN

Fair Housing Center of Central Indiana
445 N. Pennsylvania Street, Suite 811
Indianapolis, IN 46204
(Complainant)

And

Fair Housing Center of West Michigan
20 Hall Street SE
Grand Rapids, MI 49507
(Complainant)

And

Lexington Fair Housing Council
207 E Reynolds Road, Suite 130
Lexington, KY 40517
(Complainant)

And

Legal Aid of North Carolina
224 S. Dawson Street
Raleigh, NC 27601
(Complainant)

And

Pierce Education Properties, L.P.
8880 Rio San Diego Drive, Suite 750
San Diego, CA 92108
(Respondent)

RAR2 – Smallwood Plaza PropCo, LLC
222 S. Riverside Plaza, Floor 26
Chicago, IL 60606
(Respondent)

And

PEP – Ball State, LLC
8880 Rio San Diego Drive, Suite 750
San Diego, CA 92108
(Respondent)

And

CSHF – PEP Purdue, LLC
8880 Rio San Diego Drive, Suite 750
San Diego, CA 92108
(Respondent)

And

PEP – CMU, LLC
8800 Rio San Diego Drive, Suite 750
San Diego, CA 92108
(Respondent)

And

PEP – WKU, LLC
8800 Rio San Diego Drive, Suite 750
San Diego, CA 92108
(Respondent)

And

PEP – ECU, LLC
8800 Rio San Diego Drive, Suite 750
San Diego, CA 92108
(Respondent)

Approved by the Office of Fair Housing and Equal Opportunity (FHEO), Region VIII Director
on behalf of the U.S. Department of Housing and Urban Development

Title VIII Case Number: 05-20-7919-8

A. PARTIES

Complainants:

Fair Housing Center of Central Indiana

Fair Housing Center of West Michigan

Lexington Fair Housing Council

Legal Aid of North Carolina

Respondents:

Pierce Education Properties, L.P.

RAR2 – Smallwood Plaza PropCo, LLC

PEP – Ball State, LLC

CSHF – PEP Purdue, LLC

PEP – CMU, LLC

PEP – WKU, LLC

PEP – ECU, LLC

The “subject properties” are: Smallwood on College (Avenue on College), 455 N. College Ave., Bloomington, IN 47404; The Haven, 3701 N. Marleon Dr., Muncie, IN 47304; The Lodge on the Trail, 2101 Cumberland Ave., West Lafayette, IN 47906; The Village at Bluegrass, 4300 Collegiate Way, Mt. Pleasant, MI 48858; Hilltop Club, 2426 Thoroughbred Dr., Bowling Green, KY 42104; and, The Landing, 1920 Exchange Dr., Greenville, NC 27858.

Pierce Education Properties, L.P., and its affiliated entities (collectively, “PEP”), provide property management services on behalf of the owners of all the named subject properties. PEP also manages a portfolio of 27 student housing complexes, encompassing approximately 5,715 individual units in 18 states. The terms of this Conciliation Agreement apply to all of PEP’s properties. All of the properties owned or managed by PEP are referred to herein as the “Properties.” The term “Respondents” in this agreement refers to PEP, and the named subject properties.

B. STATEMENT OF FACTS

A complaint was filed on January 24, 2020 with the U.S. Department of Housing and Urban Development (“HUD” or the “Department”) alleging one or more discriminatory housing practices under the Fair Housing Act, as amended, Title 42 United States Code (U.S.C.) Sections 3601-3619 (“the Act”). Complainants allege that Respondents discriminate on the basis of familial status by making housing unavailable, imposing discriminatory terms and conditions,

and engaging in discriminatory advertising practices, violating Subsections 804(a), 804(b) and 804(c) of the Act.

Respondents deny that they engaged in any discriminatory housing practices, but agree to settle the claim in the underlying action by entering into this Conciliation Agreement.

It is understood by all parties that this Agreement does not constitute an admission by Respondents of any violation of the Act or any other applicable law.

C. TERM OF AGREEMENT

1. This Conciliation Agreement (“Agreement”) shall govern the conduct of the parties to it for a period of three (3) years from its effective date.

D. EFFECTIVE DATE

2. This Agreement shall become effective on the date that it is approved by the FHEO Region VIII Director, Denver, Colorado or his or her designee.
3. The parties agree that this Agreement constitutes neither a binding contract under state or federal law nor a conciliation agreement pursuant to the Act until it is approved by the Department through the FHEO Region VIII Director or his or her designee.

E. GENERAL PROVISIONS

4. The parties acknowledge that this Agreement is a voluntary and full settlement of the disputed complaint. The parties affirm that they have read and fully understand the terms set forth herein. No party has been coerced, intimidated, threatened, or in any way forced to become a party to this Agreement.
5. Respondents acknowledge that they have an affirmative duty not to discriminate under the Act, and that it is unlawful to retaliate against any person because that person has made a complaint, testified, assisted, or participated in any manner in a proceeding under the Act. Respondents deny that they have engaged in any discriminatory acts but enter into this agreement in order to settle this matter. Respondents further acknowledge that any retaliation or discrimination constitutes both a material breach of this Agreement and a statutory violation of the Act.
6. This Agreement, after it has been approved by the FHEO Region VIII Director or his or her designee, is binding upon Complainants, Complainants’ heirs, successors, and assigns. This Agreement, after it has been approved by the FHEO Region VIII Director, or his or her designee, is additionally binding upon Respondents, their employees, heirs, successors, and assigns, and all others in active concert with the operations of the subject properties.
7. It is understood that upon approval of this Agreement by the FHEO Region VIII Director or his or her designee, it is a public document pursuant to Section 3610(b)(4) of the Act.

8. This Agreement does not in any way limit or restrict the Department's authority to investigate any other complaint involving Respondents made pursuant to the Act or any other complaint within the Department's jurisdiction.
9. No amendment to, modification of, or waiver of any provisions of this Agreement will be effective unless: (a) all signatories to the Agreement or their successors agree in writing to the amendment, modification, or waiver; (b) the amendment, modification, or waiver is in writing; and (c) the amendment, modification, or waiver is approved and signed by the FHEO Region VIII Director or his or her designee.
10. The parties agree that the execution of this Agreement may be accomplished by separate execution of consents to this Agreement, and that the original executed signature pages attached to the body of the Agreement constitute one document.
11. Complainants hereby forever waive, release, and covenant not to sue the Department or PEP, to include all their heirs, executors, successors, assigns, agents, employees, and attorneys with regard to any and all claims, damages, and injuries of whatever nature, whether presently known or unknown, arising out of the subject matter of FHEO Case Number 0520-7919-8, or which could have been filed in any action or suit arising from said subject matter.
12. Respondents hereby forever waive, release, and covenant not to sue the Department or Complainants, to include all their successors, assigns, agents, officers, employees, and attorneys with regard to any and all claims, damages, and injuries of whatever nature whether presently known or unknown, arising out of the subject matter of FHEO Case Number 05-20-7919-8, or which could have been filed in any action or suit arising from said subject matter.
13. The individuals signing on behalf of any named Respondents hereby represent that they have the authority to sign for the Respondents and that their signature will bind Respondents.

F. RELIEF FOR COMPLAINANTS

14. Within ten (10) days of the effective date of this Agreement, Respondents agree to pay Complainants the total sum of \$50,000 (fifty-thousand dollars). The amount shall be paid by certified or cashier's check, made payable to "Relman Colfax IOLTA," and will be delivered via Federal Express or Certified Mail to the attention of Jia Cobb, 1225 19th Street, NW, Suite 600, Washington, DC 20036.

G. RELIEF IN THE PUBLIC INTEREST

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

16. Respondents agree that they will not adopt any occupancy restriction or occupancy policy that on its face or in effect unreasonably limits the availability of housing to families with children at Respondents' properties. For purposes of this Agreement, an occupancy restriction or occupancy policy that unreasonably limits the availability of housing to families with children is a policy that is more restrictive than the applicable local occupancy code for the jurisdiction in which the property is located. Within thirty (30) days of the effective date of this Agreement, Respondents will effectuate a revised occupancy policy for any property that Respondents own and/or manage that reflects the requirements imposed by this Paragraph, and which complies with the federal Fair Housing Act.
17. 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. Posters may be obtained from HUD's website at:

http://portal.hud.gov/hudportal/documents/huddoc?id=Fair_Housing_Poster_Eng.pdf
18. Within thirty (30) days of the effective date of this Agreement, Respondents will distribute to all current tenants an electronic copy of HUD's fair housing brochure. Prospective residents will be provided a hard or electronic copy of the brochure at application.
19. Within thirty (30) days of the effective date of this Agreement, Respondents will include the following statement on forms such as rules, leases, and applications provided to tenants or prospective tenants: "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."
20. Within sixty (60) days of the effective date of this Agreement, all advertising and marketing practices, policies, materials, and media for Respondents' properties shall undergo review, and be revised as necessary, to ensure compliance with federal, state and local fair housing laws, regulations, and ordinances.
 - a. If Respondents choose to continue the use of human models in advertising and/or marketing practices, Respondents agree that its use of human models will comply with federal, state, and local fair housing laws, regulations, and ordinances.
 - b. Respondents further agree that its use of human models in advertising will adhere to the specific regulation of the federal Fair Housing Act formerly set forth at 24 C.F.R. 109.30(b), which reads as follows: "If models are used in display advertising campaigns, the models should be clearly definable as reasonably representing majority and minority groups in the metropolitan area, both sexes, and, when appropriate, families with children. Models, if used, should portray persons in an equal social setting and indicate to the general public that the housing is open to all without regard to race, color, religion, sex, handicap,

familial status, or national origin, and is not for the exclusive use of one such group.”

- c. Respondents specifically agree that advertisements which depict people will depict families with children. Respondents will not be required to add human models in pictures that only feature the Properties.
21. Within six (6) months of the effective date of this Agreement, Respondents agree that all employees who are responsible for the operation and management of their properties, or who interact with tenants, will attend fair housing training once a year for the next three (3) years. The training must cover occupancy standards and familial status discrimination. If the training is not provided by any of the involved fair housing groups, it must be approved in advance of attendance by the involved fair housing groups and that approval will not be unreasonably withheld. Proof of attendance will be provided yearly to the fair housing groups. Any costs associated with this training are to be paid by Respondents.

H. MONITORING

22. During the term of this Agreement, the Department may review compliance with the Agreement by examining witnesses and copying pertinent records. Monitoring of this Agreement may also include, but is not limited to, conducting fair housing tests by the Department or other HUD-approved entity. The Respondents agree to provide full cooperation in any monitoring review undertaken by, or on behalf of, the Department to ensure compliance with the Agreement.

I. REPORTING AND RECORD KEEPING

23. Within twenty (20) days of having mailed the check referenced in Paragraph 14 of this Agreement, Respondents shall certify compliance with the provision by sending a copy of the check to HUD, as outlined in Paragraph 30.
24. Within thirty (30) days of the effective date of this Agreement, Respondents agree to submit, for approval from the Department, the revised occupancy policy referenced in Paragraph 16. The Department will provide feedback and any additional revisions necessary within sixty (60) days of receipt of the revised occupancy policy. The Department will then permit up to thirty (30) days from the date of feedback for any necessary additional revisions to be incorporated and resubmission and approval of the policy, as outlined in Paragraph 30.
25. Within twenty (20) days of having complied with the terms of Paragraph 17 of this Agreement, Respondents shall certify to the FHEO Region VIII Director that they have complied by submitting to HUD, as outlined in Paragraph 30, a photograph of the fair housing poster displayed in the rental office or common use area for all of the Properties.
26. Within twenty (20) days of having complied with the terms of Paragraph 18 of this Agreement, Respondents shall certify to the FHEO Region VIII Director that they have

complied by submitting to HUD, as outlined in Paragraph 30, documentation of certification that brochures were distributed to every tenant at all of the Properties.

27. Within twenty (20) days of having complied with the terms of Paragraph 19 of this Agreement, Respondents shall certify to the FHEO Region VIII Director that they have complied by submitting to HUD, as outlined in Paragraph 30, documentation of certification that the non-discrimination statement is included in all rules, leases, and applications at all of the Properties.
28. Within twenty (20) days of having complied with the terms of Paragraph 20 of this Agreement, Respondents shall certify to the FHEO Region VIII Director that they have complied by submitting certification of compliance to HUD, as outlined in Paragraph 30, that the agreed-upon advertising requirements have been implemented at all of the Properties.
29. Within twenty (20) days of completion of the training required by Paragraph 21 of this Agreement, Respondents shall certify compliance by submitting a copy of the certificates of completion of yearly training for the mandated fair housing training to HUD, as outlined in Paragraph 30.
30. All reports and correspondence pursuant to this Agreement shall include FHEO Case Number 05-20-7919-8. All required certifications and documentation of compliance must be submitted to:

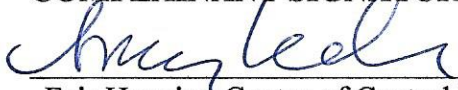
Michelle R. Utley, Region VIII Conciliation Monitor
Office of Fair Housing and Equal Opportunity
U.S. Department of Housing and Urban Development
1670 Broadway, 24th floor
Denver, Colorado 80202-4801

J. CONSEQUENCES OF BREACH

Whenever the Department has reasonable cause to believe that the Respondents have breached this Agreement, the matter may be referred to the Attorney General of the United States to commence a civil action in the appropriate U.S. District Court, pursuant to §§ 3610(c) and 3614(b) of the Act.

K. SIGNATURES

COMPLAINANT SIGNATURES


Fair Housing Center of Central Indiana
Complainant

8/17/2020
Date

Signing for Fair Housing Center of
Central Indiana (print name/title)

Amy Nelson,
Executive Director

Fair Housing Center of West Michigan
Complainant

Date

Signing for Fair Housing Center of West
Michigan (print name/title)

Lexington Fair Housing Council
Complainant

Date

Signing for Lexington Fair Housing
Council (print name/title)

Legal Aid of North Carolina
Complainant

Date

Signing for Legal Aid of North Carolina
(print name/title)

K. SIGNATURES

COMPLAINANT SIGNATURES

Fair Housing Center of Central Indiana
Complainant

Date

Signing for Fair Housing Center of
Central Indiana (print name/title)



8/17/2020
Date

Fair Housing Center of West Michigan
Complainant

Signing for Fair Housing Center of West
Michigan (print name/title)

Lexington Fair Housing Council
Complainant

Date

Signing for Lexington Fair Housing
Council (print name/title)

Legal Aid of North Carolina
Complainant

Date

Signing for Legal Aid of North Carolina
(print name/title)

K. SIGNATURES

COMPLAINANT SIGNATURES

Fair Housing Center of Central Indiana
Complainant

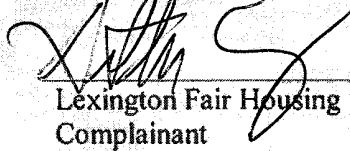
Date

Signing for Fair Housing Center of
Central Indiana (print name/title)

Fair Housing Center of West Michigan
Complainant

Date

Signing for Fair Housing Center of West
Michigan (print name/title)



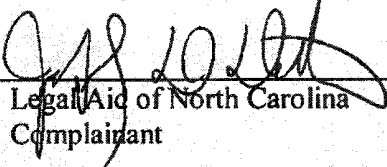
Lexington Fair Housing Council
Complainant

8/18/2020

Date

Signing for Lexington Fair Housing
Council (print name/title)

Arthur Crosby, Executive Director



Legal Aid of North Carolina
Complainant


8/17/2020

Date

Signing for Legal Aid of North Carolina
(print name/title)

Jeffrey D. Dillman
Co-Director/Managing Attorney
Fair Housing Projects, LANC


RESPONDENT SIGNATURES


Pierce Education Properties, L.P.
Respondent

8-14-20
Date

Signing for Pierce Education Properties,
L.P. (print name/title)


CLARK WARDLE, CFO


RAR2 - Smallwood Plaza PropCo, LLC
Respondent

8-14-20
Date

Signing for RAR2 - Smallwood Plaza
PropCo, LLC (print name/title)


CLARK WARDLE, AUTHORIZED
SIGNATORY


PEP - Ball State, LLC
Respondent

8-14-20
Date

Signing for PEP - Ball State, LLC (print
name/title)


CLARK WARDLE CFO


CSHF - PEP Purdue, LLC.
Respondent

8-14-20
Date

Signing for CSHF - PEP Purdue, LLC
(print name/title)

CLARK WARDLE, CFO


PEP - CMU, LLC.
Respondent

8-14-20
Date

Signing for PEP - CMU, LLC (print
name/title)

CLARK WARDLE, CFO


PEP - WKU, LLC.
Respondent

8-14-20
Date

Signing for PEP – WKU, LLC (print name/title)



PEP – ECU, LLC
Respondent

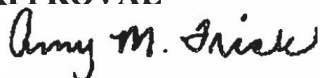
CLARK WARDLE, CFO

8-14-20

Date

Signing for PEP – ECU, LLC (print name/title)

APPROVAL



Amy M. Frisk
Region VIII Director
Office of Fair Housing and Equal
Opportunity

CLARK WARDLE, CFO

18 August 2020

Date