

**UNITED STATES DEPARTMENT OF HOUSING AND URBAN
DEVELOPMENT**

**TITLE VIII
SECTION 109 of TITLE 1 OF THE HOUSING AND COMMUNITY
DEVELOPMENT ACT OF 1974
AND
SECTION 504 OF THE REHABILITATION ACT OF 1973
CONCILIATION AGREEMENT/VOLUNTARY COMPLIANCE AGREEMENT**

Between

Normandy Living, LLC
(Complainant)

And

City of Miami Beach, Florida
City of Miami Beach, Florida-Planning Department
(Respondents)

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

FHEO CASE NUMBER: 04-17-7816-8; 04-17-7816-4; 04-17-7816-D & 04-17-7816-9

A. PARTIES AND SUBJECT PROPERTY

Complainant

Normandy Living, LLC
101 20th Street, Suite 2706
Miami, FL 33139

Complainant's Representative:

Craig Lewis, Esq.
Vincent F. Vaccarella, P.A.
333 N. New River Drive, East, Suite 3000
Fort Lauderdale, FL 33301

Respondents:

City of Miami Beach, Florida
1700 Convention Center Drive
Miami Beach, FL 33139

City of Miami Beach, Florida –Planning Department
1700 Convention Center Drive
Miami Beach, FL 33139

Respondents' Representative

Margaret Mevers, Esq.
1221 Brickell Ave. , 19th Floor
Miami, Florida 33131

Subject Property:

1904 Marseille, Drive
Miami Beach, FL 33131

710 Rue Granville
Miami Beach, FL 33141

B. STATEMENT OF ALLEGATIONS

A complaint was filed with the United States Department of Housing and Urban Development (HUD or the Department) on April 17, 2017, alleging that the Complainant was injured by discriminatory acts. It is alleged that Respondents were responsible for discriminatory terms, conditions, or privileges or facilities in connection with the dwelling, failure to make reasonable accommodation, and using ordinance to discriminate

___RY

in zoning and land use. Complainant believes Respondents collectively discriminated against the organization because of disability. The Complainant alleged that the most recent act to have occurred on November 29, 2016. If proven, the allegations would constitute violations of Sections 804 (f)(1) and 804(f)(3)(b) of Title VIII of the Civil Rights Act of 1968 as amended by the Fair Housing Act of 1988, Section 504 of the Rehabilitation Act of 1973, and Section 109 of Title 1 of the Housing and Community Development Act of 1974.

Complainant and Respondents, without admitting fault, liability, or responsibility for Complainant's alleged damages, agree that it is in their respective interests to voluntarily settle this controversy and resolve this matter without the necessity of an evidentiary hearing or other judicial process available under the laws cited above.

C. TERM OF AGREEMENT

1. This Conciliation Agreement (Agreement) shall govern the conduct of the parties to it for a period of one (1) year from the Effective Date of this Agreement.

D. EFFECTIVE DATE

2. The parties expressly agree that this Agreement constitutes neither a binding contract under state or federal law nor a Conciliation Agreement pursuant to the Act, unless and until such time as it is approved by the U.S. Department of Housing and Urban Development, through the FHEO Region IV Director, or his or her designee.
3. This Agreement shall become effective on the date on which it is approved by the Regional Director of the Office of Fair Housing and Equal Opportunity (FHEO) of the United States Department of Housing and Urban Development (HUD) 40 Marietta Street, Atlanta, Georgia 30303 or his or her designee.

E. GENERAL PROVISIONS

4. The parties acknowledge that this Agreement is a voluntary and full settlement of the Title VIII, Section 504, and Section 109 disputed complaints. 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. The Respondents acknowledge that they have an affirmative duty not to discriminate under the Act, and 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 further acknowledge that any subsequent retaliation or

___RY

___ City of Miami Beach

discrimination constitutes both a material breach of this Agreement, and a statutory violation of the Act.

6. This Agreement, after the FHEO Regional Director or his or her designee has approved it, is binding upon Respondents, their employees, heirs, successors and assignees, and all others in active concert with them in the operation of the subject property.
7. It is understood that, pursuant to Section 810(b)(4) of the Act, upon approval of this Agreement by the FHEO Regional Director or his or her designee, it is a public document.
8. This Agreement does not in any way limit or restrict the Department's authority to investigate any other complaint involving the Respondents made pursuant to the Fair Housing Act or any other complaint within the Department's jurisdiction.
9. No amendment to, modification of, or waiver of any provisions of this Agreement shall be effective unless: (a) all signatories or their successors to the Agreement 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 Regional 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; the original executed signature pages to be attached to the body of the Agreement to constitute one document.
11. Complainant, hereby forever waives, releases, and covenants not to sue the Department, Respondents, their heirs, executors, assigns, agents, employees and attorneys with regard to any and all claims, damages, and injuries of whatever nature, whether presently known or unknown, arising out of the subject matter addressed in HUD Case Number 04-17-7816-8/4/D/9, and the subject matter addressed in *Normandy Living LLC v. The City of Miami Beach, Thomas Mooney, Raul J. Aguila, and the Planning Board of the City of Miami Beach, Florida, et al.* (currently pending in The Circuit Court of the 11th Judicial Circuit in and for Miami-Dade County, Florida, case number 17-2060-CA-10) or which could have been filed in any action or suit arising from said subject matter (hereinafter "Actions").
12. Respondents, hereby forever waive, release, and covenant not to sue the Department or Complainant, or its successors, assigns, agents, officers, managers, members, board members, employees and attorneys with regard to any and all claims, damages, and injuries of whatever nature, whether presently known or unknown, arising out of the subject matter of HUD Case Number 04-17-7816-8/4/9, *Normandy Living LLC v. The City of Miami Beach, Thomas Mooney, Raul J. Aguila, and the Planning Board of the City of Miami Beach, Florida* (currently pending in The Circuit Court of the 11th Judicial Circuit in and for Miami-Dade County, Florida, Case Number 17-2060-

___RY

___ City of Miami Beach

CA-10) or which could have been filed in any action or suit arising from said subject matter (the "Actions" as defined in paragraph 11 hereof).

F. RELIEF FOR COMPLAINANT

13. Conditioned upon Complainant's satisfaction of the requirements set forth in paragraph 14, Respondents agree to pay Complainant, Normandy Living, LLC the amount of \$500,000.00 (Five Hundred Thousand Dollars) within ten (10) business days of the Effective Date of this Agreement. The payment shall be made via wire transfer to Complainant's representative attorneys, pursuant to the wire instructions provided by Complainant's attorney. Complainant's attorney shall provide wire instructions within one (1) business day of the Effective Date. A copy of proof of wire transfer shall be sent to Curtis Barnes, Conciliator via email at curtis.l.barnes@hud.gov. Complainant's attorneys will hold the funds in their trust account until the dismissals are filed in accordance with paragraph 14.
14. Complainant agrees within three (3) business day of the Effective Date of this Agreement, to send Respondents' attorneys the notice of dismissal with prejudice of all pending claims including but not limited to HUD Case Number 04-17-7816-9/4/D/9 and *Normandy Living LLC v. The City of Miami Beach, Thomas Mooney, Raul J. Aguila, and the Planning Board of the City of Miami Beach, Florida*, currently pending in The Circuit Court of the 11th Judicial Circuit in and for Miami-Dade County, Florida, Case Number 17-2060-CA-10. Respondents' attorneys will hold the dismissal in trust pending clearance of the settlement funds in Complainant's attorney's trust account, and will file the dismissal immediately upon being notified of clearance.

G. RELIEF IN THE PUBLIC INTEREST

15. Within One Hundred and Eighty (180) days of the Effective Date of this Agreement, the employees of the City of Miami Beach Planning Department who deal directly with the public involving zoning applications, must attend training on the Federal Fair Housing Act; Section 504 of the Rehabilitation Act of 1973, and Section 109 with particular emphasis on reasonable accommodation and reasonable modifications. The training will be provided by the City of Miami Beach Office of the City Attorney or HUD Programs Compliance. Those employees required to obtain training pursuant to this paragraph shall obtain from the trainer or training entity certificates of attendance signed by each individual who attends the training. Respondents shall provide the Department with copies of the certificates of attendance.
16. At its City Commission meeting on October 31, 2017, Respondents will present, for first reading, a zoning ordinance for residential detox facilities. In the event that the zoning ordinance for residential detox facilities is approved by the City Commission

___RY

___ City of Miami Beach

on first reading, a copy of the proposed zoning ordinance will be provided to the Department for review and comment immediately following first reading. The Department shall provide any input to Respondent no later than November 30, 2017. The City will ensure the zoning ordinance for residential detox facilities is in compliance with the Department's review as to non-discrimination prior to second reading which is tentatively set for December 2017. Complainant may obtain a copy of the proposed ordinance which is a public record pursuant to Florida public records law. Complainant may attend the City Commission public hearings addressing consideration of the zoning ordinance for residential detox facilities the same as all other members of the public.

17. Respondents will develop and maintain policies and procedures for accepting and processing requests for reasonable accommodations for persons with disabilities. The proposed policies and procedures will be provided to the Department for review and comments prior implementation.
18. Respondents will display a HUD Fair Housing poster in the office where zoning applications are submitted.
19. Respondents agree to apply their policies and procedures in a nondiscriminatory manner.

H. MONITORING

20. The Department shall determine compliance with the terms of this Agreement. During the term of this Agreement, HUD may review compliance with this Agreement. As part of such review, HUD may inspect Respondents' property identified in Section A of this Agreement, examine witnesses and copy pertinent records of Respondents. Respondents agree to provide their full cooperation in any monitoring review undertaken by HUD to ensure compliance with this Agreement.

I. REPORTING AND RECORDKEEPING

21. All required certifications and documentation of compliance must be submitted to:

U.S. Department of Housing & Urban Development
Office of Fair Housing and Equal Opportunity
ATTN: Curtis Barnes, Conciliator
40 Marietta St.-16th Floor – 16th floor
Atlanta, GA 30301

___RY

___ City of Miami Beach

J. CONSEQUENCES OF BREACH

22. Whenever, during the term of this Agreement, the Secretary, after an examination of any facts and circumstances, has reasonable cause to believe that the Respondents have breached this Agreement in a material way, the Secretary may refer the alleged breach to the Attorney General of the United States with a request to commence a civil action in the appropriate U. S. District Court pursuant to §§ 810(c) and 814(b)(2) of the Act.
23. Any act(s) or omission(s) of an employee who violates the terms of this Agreement may serve as grounds for HUD imposing debarment, as set forth in 24 C.F.R. § 24.300; suspension, as set forth in 24 C.F.R. § 24.400; or limited denial of participation, as set forth in 24 C.F.R. § 24.705 for that employee.
24. Complainant's or Respondents' act(s) or omission(s) violating the terms of this Agreement may serve as grounds for the United States to pursue an action in federal court for failure to comply with applicable civil rights authorities.

K. GENERAL RELEASE

25. Complainant and Respondent irrevocably and unconditionally release, remise, and forever discharge each other and their respective parents, subsidiaries, principals, affiliates, partners, predecessors, successors, assigns, agents, officers, directors, shareholders, managers, members, commissioners, board members, elected officials, employees, representatives, insurance carrier, attorneys and all other persons acting by, though, under or in concert with any of them ("Released Parties"), from any and all charges, complaints, claims, liabilities, suits, rights, demands, costs, losses, debts, accounts, covenants, actions or causes of action, judgments and expenses, and any other claims of whatever nature, including, but not limited to, the allegations which were set forth or could have been set forth in the Actions, whether in contract or tort, including attorneys' fees and costs of any nature whatsoever, known or unknown, suspected or unsuspected, of every nature, character and description without limitation in law, equity or otherwise, which they, or any person, corporation, or entity claiming or purporting to claim by or through them, now have or have heretofore had against them, whether now known or unknown, suspected or unsuspected. This Release specifically includes, without limitation, all known and unknown claims for damages, both to person and property, diminution in value, and all other claims, damages, and necessary expenses of every kind arising now or in the future related to the Actions, except as necessary to enforce the terms of this Agreement. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties, including, but not limited to, those arising out of or connected with the Actions or the relationship and activities which took place between the Released Parties. This general release as set forth in this paragraph 25 is expressly intended to survive termination and/or expiration of this Agreement.

___RY

___ City of Miami Beach

L. CERTIFICATION/SIGNATURES

By affixing their signatures hereunder, the parties certify that they have reviewed and understand the terms and conditions of this Agreement, and that they have full authority to enter into this Agreement on behalf of themselves or as agents of others.

L. SIGNATURES

Complainant:

Rick Yun for Normandy Living, LLC

Date

Title with Normandy Living, LLC

Respondents City of Miami Beach & City of Miami Beach Planning Department:

By: _____
Signature

Date

Print Name Title

Clerk

APPROVAL

**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**
R. C. O. 10-30-17

City Attorney Date

Carlos Osegueda
FHEO Region IV Director

Date

___RY

___ City of Miami Beach