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CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

MEMORANDUM

Agenda Item No. 14(A)(1)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: February 20, 2013

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Resolution approving and authorizing the County Mayor or the County Mayor's designee, subject to the approval of the United States Department of Housing and Urban Development, to execute a conciliation agreement to resolve the fair housing complaint of Monica Navarro

Resolution No. R-137-13

The accompanying resolution was prepared by the Public Housing and Community Development Department and placed on the agenda at the request of Prime Sponsor Commissioner Xavier L. Suarez.

R. A. Cuevas, Jr.
County Attorney

RAC/lmp

Memorandum

MIAMI-DADE COUNTY

Date: February 20, 2013

To: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

Subject: Resolution Authorizing a Conciliation Agreement between Monica Navarro and Miami-Dade County

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Recommendation

It is recommended that the Board of County Commissioners (Board) approve the settlement of a Fair Housing Complaint filed by Ms. Monica Navarro, according to the terms and conditions specified in the Conciliation Agreement between Monica Navarro (Navarro) and the Miami-Dade Board of Commissioners, and Berenson Realty, II, Inc. (Berenson), the owner and manager of the apartment building where Navarro resides, subject to the approval of the United States Department of Housing and Urban Development (Housing and Urban Development). It is further recommended that the Board authorize the County Mayor or the County Mayor's designee to take appropriate action to execute the Conciliation Agreement (Attachment A).

Scope

The Conciliation Agreement only applies to Ms. Navarro's discrimination claims against the County.

Fiscal Impact/Funding Source

This item does not have a fiscal impact to the County.

Track Record/Monitor

The County's Section 8 Moderate Rehabilitation program is administered by Public Housing and Community Development Department (the Department), and Crystal Coleman, director of Contracts Administration, will monitor for compliance purposes the stipulations contained within the Conciliation Agreement.

Background

On October 12, 2012, Navarro, a tenant and participant in the Department's Section 8 Moderate Rehabilitation Program, filed a discrimination complaint (Complaint) with the Housing and Urban Development's Office of Fair Housing and Equal Opportunity. Ms., Navarro alleged that the County and Berenson engaged in discriminatory practices against her, specifically based upon her national origin and disability, asserting that her health was jeopardized by the conditions in her unit and by denying her a reasonable accommodation transfer. The Complaint further alleged that the County and Berenson violated Title VI of the Civil Rights Act, which requires language access to federally conducted and federally assisted programs. On November 15, 2012, the County responded to Housing and Urban Development's Office of Fair Housing and Equal Opportunity denying all allegations associated with the complaint.

Navarro requested that the Department transfer her to a new dwelling unit as a reasonable accommodation because the conditions in her unit affected her disability. The Department performed an initial inspection of Navarro's unit, pursuant to her complaint about chemicals from the unit upstairs seeping into her unit; however, the inspection revealed no signs of chemicals or odors in the unit. According to Navarro, dust falling from the ceiling of her apartment affected her breathing and burned her skin.

The Department advised Navarro in writing that the reasonable accommodation transfer had been denied because the unit inspection did not reveal signs of chemicals or odors. Navarro complained to the Housing and Urban Development that since the denial letter was in English, she did not understand it, and that the Department failed to translate and/or provide an explanation. The County also denied this allegation. However, based on preliminary meetings with the Housing and Urban Development investigator and their assessment of the Title VI claim, Housing and Urban Development recommended that the County should enter into the conciliation agreement, which has a lesser impact on the County and the Department's administration of the federal programs than other types of agreements that had been proposed by Housing and Urban Development.

The proposed Conciliation Agreement contains the following terms and conditions:

- The term of the Conciliation Agreement will be for a period of one (1) year effective from the date of signing by all parties;
- Navarro agrees to withdraw all of her claims, including but not limited her Title VI claim;
- All parties to the agreement acknowledge that no further action shall be taken in reference to the Complaint;
- Ms. Navarro waives, releases, and discharges the County and Berenson Realty, II, Inc from all liability arising from her claims;
- The County agrees to approve Ms. Navarro's transfer request to a two-bedroom Section 8 Moderate Rehabilitation unit with electric stove and central air conditioner as a reasonable accommodation for her disability.

After further assessment of the case and after consulting with the County Attorney's Office, it is recommended that it is in the County's best interest that this Board approve the attached Conciliation Agreement; in substantially the form attached approved by Housing and Urban Development.

Attachment

Russell Benford
Deputy Mayor

MEMORANDUM
(Revised)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: February 20, 2013

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Agenda Item No. 14(A)(1)

Please note any items checked.

_____ **"3-Day Rule" for committees applicable if raised**

_____ **6 weeks required between first reading and public hearing**

_____ **4 weeks notification to municipal officials required prior to public hearing**

_____ **Decreases revenues or increases expenditures without balancing budget**

_____ **Budget required**

_____ **Statement of fiscal impact required**

✓ **Ordinance creating a new board requires detailed County Mayor's report for public hearing**

_____ **No committee review**

_____ **Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous _____) to approve**

_____ **Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 14(A)(1)
2-20-13

RESOLUTION NO. R-137-13

RESOLUTION APPROVING AND AUTHORIZING THE COUNTY MAYOR OR THE COUNTY MAYOR'S DESIGNEE, SUBJECT TO THE APPROVAL OF THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, TO EXECUTE A CONCILIATION AGREEMENT TO RESOLVE THE FAIR HOUSING COMPLAINT OF MONICA NAVARRO

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board hereby approves the execution of a Conciliation Agreement to resolve the Fair Housing Compliant of Monica Navarro, in substantially the form attached hereto, subject to the approval of the United States Department of Housing and Urban Development; and authorize the County Mayor or County Mayor's designee to execute same for and on behalf of Miami-Dade County.

The foregoing resolution was offered by Commissioner **Audrey Edmonson**, who moved its adoption. The motion was seconded by Commissioner **Rebeca Sosa** and upon being put to a vote, the vote was as follows:

Rebeca Sosa, Chairwoman **aye**
Lynda Bell, Vice Chair **aye**

Bruno A. Barreiro	**aye**	Esteban L. Bovo, Jr.	**aye**
Jose "Pepe" Diaz	**absent**	Audrey M. Edmonson	**aye**
Sally A. Heyman	**aye**	Barbara J. Jordan	**aye**
Jean Monestime	**aye**	Dennis C. Moss	**aye**
Sen. Javier D. Souto	**aye**	Xavier L. Suarez	**absent**
Juan C. Zapata	**absent**		

The Chairperson thereupon declared the resolution duly passed and adopted this 20th day of February, 2013. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: Christopher Agrippa
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Terrence A. Smith

UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

TITLE VIII

CONCILIATION AGREEMENT

between

MONICA NAVARRO
2890 Virginia Street, #402
Miami, Florida 33133

(Complainant)

and

MIAMI-DADE BOARD OF COMMISSIONERS
ATTN: Mayor Carlos A. Gimenez
111 NW 1st Street, 29th Fl.
Miami, FL 33128

BERENSON REALTY, II, INC.
Nine Island Ave., Apt. 2008
Miami Beach, FL 33139

(Respondents)

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

FHEO CASE NUMBER: 04-13-0037-8

A. PARTIES AND SUBJECT PROPERTY

This Conciliation Agreement ("Agreement") is entered into by and between the United States Department of Housing and Urban Development (hereinafter "HUD" or "the Department") on behalf of MONICA NAVARRO, (hereinafter "Complainant"), and MIAMI-DADE COUNTY, a political subdivision of the State of Florida, and its BOARD OF COUNTY COMMISSIONERS, (collectively hereinafter referred to as "Respondent County"), and BERENSON REALTY II, INC., (hereinafter Respondent Berenson") (hereinafter collectively referred to as "Respondents"). (Complainants and Respondents hereinafter collectively referred to as the "Parties").

Complainant

Monica Navarro
2890 Virginia Street, #402
Miami, Florida 33133

Respondents

Miami-Dade Board of Commissioners
ATTN: Mayor Carlos A. Gimenez
111 NW 1st Street, 29th Fl.
Miami, FL 33128

Berenson Realty, II, Inc.
Nine Island Ave., Apt. 2008
Miami Beach, FL 33139

(Respondents)

Subject Property

2890 Virginia Street, #402
Miami, Florida 33133

B. STATEMENT OF FACTS

A complaint was filed with the United States Department of Housing and Urban Development ("HUD" or "the Department") on October 15, 2012 alleging the Complainant was injured by a discriminatory act caused by the Respondents.

The Complainant believes that the discrimination is based on her national origin and disability. The Complainant believes the Respondents discriminated against her in violation of Sections 804(b), 804(f)(2) and 804(f)(3)(B) of The Fair Housing Act (hereinafter "the Act" or "FHA"). In response to the complaint, Respondents have expressly denied any liability whatsoever as it relates to the complaint and further expressly deny any liability whatsoever under the Act, Title VI or Section 504.

C. TERM OF AGREEMENT

1. This Conciliation Agreement (hereinafter "Agreement") shall govern the conduct of the Parties to it for a period of one (1) year from the effective date of the signing of this Agreement by all Parties.

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 Regional Director of the Office of Fair Housing and Equal Opportunity ("FHEO"), or his or her designee.

3. This Agreement shall become effective on the date on which it is approved by the Director of the Office of Fair Housing and Equal Opportunity (FHEO), 40 Marietta Street, Atlanta, Georgia 30303, of the United States Department of Housing and Urban Development ("HUD").

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. The Respondents acknowledge 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, or assisted others in filing a claim and, or further acknowledge that any subsequent retaliation or 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 the owners, employees, heirs, successors and assignees and all others in active concert with them in the ownership or operation of the subject property. Additionally, this Agreement and the Parties' obligations hereunder are

contingent upon the final approval of this Agreement by the Board of County Commissioners, which shall be within the Board's sole discretion. If the Board, in its sole discretion, does not approve of the Agreement, this Agreement shall be null and void. Complainant understands that such approval is an express contingency to the settlement of this matter.

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 restricts the Department's authority to investigate any other complaint involving any of 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.

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. The parties acknowledge that Maria Sanchez of Miami Dade Public Housing and Community Development is being removed as a respondent in this case. The parties further acknowledge that Maria Sanchez' signature is not required for the execution of this Agreement.

12. Upon execution of this Agreement, the Complainant hereby withdraws the Title VI and Section 504 portions of the complainant alleged in HUD Case Number 04-13-0037-8/6/4. The Parties acknowledge that no further action shall be taken by the Department in reference to the Title VI and Section 504 allegations in HUD Case Number 04-13-0037-8/6/4.

13. Complainant hereby forever waives, releases, discharges and covenants not to sue the Department or Respondent(s) or their respective officers, partners, directors, heirs, executors, assigns, agents, employees, attorneys, subsidiaries, affiliates, representatives and successors with regard to any and all claims, demands, debts, damages, duties, causes of actions, suits or injuries of whatever nature, whether in law or in equity, whether presently known or unknown, arising out of, under or relating to subject matter of HUD Case Number 04-13-0037-8/6/4 or which could have been filed in any action or suit arising out of, under or relating to said subject matter.

14. Respondents hereby forever waive, release, and covenant not to sue the Department or Complainant(s) and its successors, assigns, agents, officers, 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 04-13-0037-8/6/4 or which could have been filed in any action or suit arising from said subject matter.

F. RELIEF FOR COMPLAINANT

15. To fully and finally settle the alleged discrimination complaints subject of this Agreement, Respondents agree to take the following actions, and, as set forth below:

A. Respondent County agrees to approve the transfer of Complainant to a 2-bedroom Section 8 Moderate Rehabilitation unit with electric stove and central air conditioning as a reasonable accommodation for her disability. Said unit will be located within ten (10) miles of 2890 Virginia Street, Miami, Florida 33133. In the event, there are no 2-bedroom units with central air conditioning located within the 10 mile radius described herein, Respondent County will offer a unit that has another form of air conditioning to the Complainant. If no unit is immediately available, Complainant shall be placed at the top of the transfer list for the next available qualifying unit.

G. RELIEF IN THE PUBLIC INTEREST

16. Within thirty (30) days of the effective date of this Agreement, Respondents shall inform all of their agents and employees responsible for compliance with this Agreement, including any officers and board members, of the terms of this Agreement and shall provide each such person with a copy of this Agreement. The Respondents agree to provide a certification of compliance with this provision to the HUD as identified in Section I of this Agreement.

17. The Respondents agree that within one hundred and eighty days (180) days of the Agreement becoming final, the office employees and management staff of Respondent Berenson shall complete a one-time training on all matters relating to their responsibilities under the Fair Housing Act. The training will be provided by an external source. Respondent Berenson will provide HUD with a copy of the agenda and biographical information for each individual providing the training and a sign in sheet which identifies the names and positions of each employee trained.

18. Respondents agree not to retaliate against or interfere with any other person on account of their exercise of any right under the Act or on account of their having aided or encouraged any other person in the exercise or enjoyment of their rights under the Act.

H. MONITORING

19. 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 Respondent Berenson's property identified in Section A of this Agreement, examine witnesses, and copy pertinent records of Respondent Berenson. Respondent Berenson agrees to provide their full cooperation in any monitoring review undertaken by HUD to ensure compliance with this Agreement.

I. REPORTING AND RECORDKEEPING

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

Natasha J. Watson, Director, Louisville FHEO Center
U.S. Department of Housing and Urban Development
601 West Broadway
Louisville, KY 40202
ATTN: CASE NUMBER: 04-13-0037-8

J. CONSEQUENCES OF BREACH

21. Whenever the Department has reasonable cause to believe that the any of 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 §§ 810 (c) and 814 (b)(2) of the Act.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK. SIGNATURE PAGE TO FOLLOW]

K. SIGNATURES

Complainant MONICA NAVARRO

1-17-13
Date

By:_____
Russell Benford, Deputy Mayor on behalf
Of MIAMI-DADE COUNTY and its
BOARD OF COUNTY COMMISSIONERS

Date

Approved as to form and legal sufficiency for
Miami-Dade County and its Board of County
Commissioners:

By:_____
Terrence A. Smith
Assistant County Attorney

By:_____
Respondent BERENSON REALTY II INC.
Print Name: RICHARD BERENSON
Title: OWNER + PRESIDENT

1-17-13
Date

L. APPROVAL

_____
Carlos Osegueda
FHEO Region IV Director

Date