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18 UNITED STATES OF AMERICA

19 IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

20 UNITED STATES OF AMERICA,)

21 Plaintiff,)

22 v.)

23 CITY OF SAN JACINTO, CALIFORNIA)

24 Defendant.)

Case No. 5:12-cv-01966-TJH-SP

AMENDED CONSENT DECREE

25)
26)
27)
28 **BACKGROUND**

1 1. The United States initiated this action on November 9, 2012, against the City of San
2 Jacinto, California ("San Jacinto," the "City," or the "Defendant"). In its Complaint, the United States
3 alleges that the Defendant violated the Fair Housing Act, as amended, 42 U.S.C. §§ 3601, et seq. (the
4 "FHA") and Title II of the Americans with Disabilities Act, 42 U.S.C. §§ 12131, et seq. (the "ADA"),
5 and its implementing regulations, 28 C.F.R. Part 35, on the basis of disability by restricting the
6 operation of group homes for persons with disabilities in the City. Specifically, the United States
7 alleges that the Defendant violated the FHA and the ADA by: 1) amending and applying its zoning
8 code with the intention and effect of excluding group homes for persons with disabilities from single-
9 and two-family zones and unreasonably restricting them in multi-family zones; 2) singling out group
10 homes for persons with disabilities for enforcement activities under the amended zoning code and
11 other laws; and 3) conditioning requests for reasonable accommodation to operate group homes for
12 persons with disabilities in residential zones on the acceptance of onerous and unjustified
13 requirements.

14 2. The United States alleges that the Defendant's actions described in the Complaint
15 violated: Section 804(0(1) of the FHA, 42 U.S.C. § 3604(0(1), by making housing unavailable
16 because of disability;¹ Section 804(0(2) of the FHA, 42 U.S.C. § 3604(0(2), by discriminating in the
17 terms, conditions, or privileges of housing because of disability; Section 804(0(3)(B) of the FHA, 42
18 U.S.C. § 3604(0(3)(B), by failing or refusing to make reasonable accommodations in rules, policies,
19 practices, or services, when such accommodations may have been necessary to afford persons with
20 disabilities an equal opportunity to use and enjoy a dwelling; and Section 818 of the FHA, 42 U.S.C.
21 § 3617, by coercing, intimidating, threatening, or interfering with persons in the exercise or enjoyment
22 of, or on account of their having exercised or enjoyed, their rights under the FHA. The United States
23 also alleges that the Defendant violated Section 202 of the ADA, 42 U.S.C. § 12132, by excluding
24 persons with disabilities from participating in and denying them the benefits of services, programs, or
25 activities of San Jacinto and failing to make reasonable modifications in its rules, policies, practices,

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¹ The Decree uses the term "disability" as the equivalent of the term "handicap" in the FHA. See 42 U.S.C. § 3602(h).

1 or services, which excluded persons with disabilities from participating in or denied them the benefits
2 of services, programs, or activities of San Jacinto.

3 3. The United States further alleges that the Defendant's conduct constitutes a pattern or
4 practice of discrimination and a denial of rights to a group of persons that raises an issue of general
5 public importance in violation of Section 814(a) of the FHA, 42 U.S.C. § 3614(a), or a discriminatory
6 housing practice under Section 814(b) of the FHA, 42 U.S.C. § 3614(b).

7 4. The City filed an answer to the complaint. In its answer, the City denies the allegations
8 of the United States and contends that it did not violate the various statutes described by the United
9 States in its allegations.

10 5. On December 12, 2012, group home operators and/or owners Rajeeyah Bilal-Varney,
11 Yvonne Carter, Aurora Beltran, and Deirdra Hampton initiated the related matter of *Bilal-Varney v.*
12 *City of San Jacinto*, ED-CV-12-02191. The action filed by these plaintiffs makes allegations similar
13 to those alleged by the United States. The City filed an answer to the complaint filed by these
14 plaintiffs denying the allegations. The Court entered an order consolidating the two actions for
15 discovery on February 26, 2013. Plaintiff Deirdra Hampton has since been dismissed from the
16 lawsuit. Plaintiffs Rajeeyah Bilal-Varney, Yvonne Carter, and Aurora Beltran are referred to in this
17 document as the "Private Plaintiffs."

18 6. The United States, the Private Plaintiffs and the Defendant desire to avoid costly
19 and protracted litigation and have voluntarily agreed to resolve the United States' and Private
20 Plaintiffs' claims against the Defendant by entering into this Consent Decree, as indicated by the
21 signatures below.

22 I. FACTUAL STIPULATIONS

23 The parties agree to the following facts:

24 7. The City of San Jacinto is a municipality in Riverside County, California, and is
25 responsible for enacting and enforcing zoning and land use laws within its jurisdiction.

26 8. On October 3, 2008, the City Council amended the San Jacinto Zoning Code ("the
27 Zoning Code") by approving Ordinance 08-14 ("the Ordinance"), which was passed by unanimous
28 vote of the Council.

1 9. The Ordinance amended the Zoning Code's definition of "Group Home" or "Group
2 Housing" to "[a] residence or dwelling, other than a hotel, wherein two (2) or more rooms, with or
3 without individual cooking facilities, are rented to individuals under separate rental agreements or
4 leases, either written or oral, whether or not an owner, agent, or rental manager is in residence, in order
5 to preserve the residential character of the neighborhood." The group home definition from the
6 Ordinance was codified at Section 2.30 of the San Jacinto Zoning Code.

7 10. The Ordinance specifically exempted certain State-licensed congregate living facilities,
8 such as "community care facilities," from its definition of "group homes," making those with six or
9 fewer residents permitted uses in residential zones.

10 11. Prior to and after the City's enactment of the Ordinance, the City's Zoning Code
11 defined "family" as "an individual or two (2) or more persons related by blood, marriage or legal
12 adoption, or a group of not more than 6 persons who are not related living together as a single house-
13 keeping unit in a dwelling unit." This definition was codified at Section 2.27 of the Zoning Code, but
14 has subsequently been amended.

15 12. Under the Zoning Code as amended by the Ordinance, group homes that were not
16 licensed by the State were not permitted-by-right in any zoning district within the City. Such homes
17 could operate in multi-family (R-3) zones, if they sought and were granted a conditional use permit.

18 13. On November 4, 2008, the City conducted an early morning investigation of nineteen
19 homes. Government officials, including armed and uniformed members of the Riverside County
20 Sheriff's Department, appeared at the homes.

21 14. After inquiring at the premises about the nature of the homes, the officials entered homes
22 and interrogated the residents individually from a previously-prepared questionnaire, intended to
23 determine, among other things, whether the residents were disabled. The questions included why the
24 residents were in the home, whether they were or had ever been a drug addict or alcoholic, whether they
25 were suffering from any form of mental illness, and if so, what type, whether they were taking "psych"
26 medications, and if so, what kind, whether they were in treatment programs, whether they or other
27 residents were currently using illegal drugs or alcohol, whether they were on parole or probation,
28 whether they were registered sex offenders, whether they were collecting SSI or disability benefits, and

1 whether medical treatment, counseling, and drug treatment were provided on site. The officials did not
2 enter, inspect, or question the residents of homes they determined were not group homes.

3 15. After the November 2008 investigation, the City continued to cite providers of group
4 homes for persons with disabilities for illegal operation of a group home in a residential zone. The
5 City did not take any judicial action to enforce citations issued for violation of the Ordinance.

6 16. Following the November 8, 2008 inspection, the City repeatedly visited some group
7 homes for persons with disabilities and cited the operators of the homes for violations of the Ordinance
8 and other laws.

9 17. On March 29, 2011, Aurora Beltran sent a request to the City for a reasonable
10 accommodation to continue operating a group home for persons with disabilities in the City.
11 Following her request, Ms. Beltran was cited by the City for operating an "illegal" group home in
12 a residential zone.

13 18. On May 16, 2011, Rajeeyah Bilal-Varney, whose home was included in the November
14 2008 inspection and who has been issued citations by the City for illegal group home and other alleged
15 violations, sent a request to the City for a reasonable accommodation to operate a group home for
16 persons with disabilities in a residential zone in the City.

17 19. The City informed the two providers that it did not yet have a process established by
18 ordinance for deciding reasonable accommodation requests at that time. Regardless, the City offered
19 to grant each provider a reasonable accommodation. That offer, however, was conditioned on the
20 acceptance of terms the providers found to be unacceptable.

21 20. The group homes investigated and/or cited by the City before and after the
22 November 2008 investigation are "dwellings" within the meaning of 42 U.S.C. § 3602(b).

23 **II. PROCEDURAL HISTORY**

24 21. Based on the investigation and other actions by the City, Ms. Bilal-Varney filed a
25 complaint with the Department of Housing and Urban Development ("HUD") on or about December
26 2, 2008, alleging discrimination in housing on the basis of disability in violation of the Fair Housing
27 Act. On or about July 6, 2009, HUD referred the complaint to the Department of Justice pursuant to
28 42 U.S.C. § 3614(a) of the Act.

1 all members of the Planning Commission, the Fair Housing Compliance Officer, employees of the
2 Code Enforcement Department with enforcement responsibilities, and all other employees and agents
3 of the City, including but not limited to law enforcement officials employed by the Riverside County
4 Sheriff's Department, with authority to make recommendations or decisions relating to or affecting
5 zoning matters, in accordance with the following subparagraphs:

- 6 a. The initial training shall be conducted in person by a qualified third party approved in
7 advance by the United States. The trainer shall not be connected to the Defendant or its
8 officials, employees, agents or counsel. Training materials intended for use in the
9 training must be submitted to the United States for approval at least thirty (30) days in
10 advance of the training. Any expense associated with this training shall be borne by the
11 Defendant;
- 12 b. The training shall be videotaped and shown to newly elected, appointed, or hired
13 individuals covered by this section. The training of each new official or staff member
14 shall take place within thirty (30) days following the date he or she commences
15 service or employment;
- 16 c. The Defendant shall provide a copy of this Decree to each person required to
17 receive the Fair Housing training;
- 18 d. The Defendant shall provide to the United States, in the form of Exhibit C, a
19 Certification of Training and Receipt of Consent Decree executed by each trainee
20 confirming: i) his or her attendance; ii) the date of the training; and iii) his or her receipt
21 and comprehension of the Decree.²

22 VI. REPORTING AND RECORD KEEPING

23 32. Within ten (10) days following his or her designation, the Defendant shall notify the
24 United States in writing of the name, business address, and business telephone number of the Fair

25 ² All documents or other communications required by this Decree to be sent to Counsel for the
26 United States shall be addressed as follows: Chief, Housing and Civil Enforcement Section, Civil
27 Rights Division, United States Department of Justice, 950 Pennsylvania Avenue, N.W. - G Street,
28 Washington, D.C. 20530, Attn: DJ# 175-12C-626, or as otherwise directed by the United States.

1 Housing Compliance Officer described in Paragraph 29, above. Should the identity of the Fair
2 Housing Compliance Officer change during the term of this Decree, the Defendant will, within ten
3 (10) days of such change, notify the United States in writing of the name of the new officer and his
4 or her contact information.

5 33. Within thirty (30) days after the initial training referenced in Paragraph 31(a), the
6 Defendant shall submit all executed copies of the Certification of Training and Receipt of Consent
7 Decree (Exhibit C), referenced in Paragraph 31(d).

8 34. The Defendant shall provide the United States with a copy of any proposed change to
9 the City's zoning code that relates to or affects in any way housing for persons with disabilities, at least
10 ninety (90) days prior to the proposed adoption of the proposed change by the Defendant.

11 35. The Defendant shall prepare biannual compliance reports that detail all actions it has
12 taken to fulfill its obligations under the Decree. The Defendant shall submit its first report to the
13 United States within six (6) months of the entry of this Decree, and subsequent reports every six (6)
14 months thereafter for the duration of the Decree, except that the final report shall be delivered to
15 the United States not less than sixty (60) days prior to the expiration of the Decree.

16 36. The Defendant shall include the following information in the compliance reports:

- 17 a. the name, address, and telephone number of the Fair Housing Compliance
18 Officer, referenced in Paragraph 29, above, as of the date of the report;
- 19 b. copies of the training certification forms referenced in Paragraph 37(d), above, not yet
20 provided to the United States;
- 21 c. any oral or written complaint received subsequent to the preceding report alleging
22 discrimination in housing, including discrimination in zoning or land use actions or
23 practices, because of disability. The Defendant shall indicate any action it took in
24 response to the complaint, and shall provide all pertinent documents, including a copy
25 of the complaint, any documents filed with the complaint, and any written response to
26 the complaint by the City;
- 27 d. a summary of each zoning request or application related to housing for persons with
28 disabilities (including those for building permits, site plans, variances, or reasonable

1 accommodations) for which the City has made a determination, indicating: i) the date
2 of the application; ii) the applicant's name; iii) the applicant's current street address; iv)
3 the street address of the proposed housing; v) the City's decision(s) regarding the
4 matter, including any decision on appeal; vi) the reasons for each decision, including a
5 summary of the facts and law upon which the City relied; vii) complete copies of any
6 minutes or audio/video recordings of all related meetings or hearings that preceded or
7 accompanied any vote; and viii) a copy of any written findings issued by the City
8 (including by the Planning Commission and City Council) or actions taken after the
9 City's last compliance report was issued;

10 e. all documents, including records of oral or written complaints, presented in support or in
11 lieu of oral testimony offered by members of the public prior to, during, or following
12 any hearing held in relation to zoning applications regarding dwellings for persons with
13 disabilities that were decided by: i) the Planning Commission; or ii) the City Council;

14 f. copies of any changes to the City of San Jacinto Code of Ordinances relating to or
15 affecting any housing for persons with disabilities enacted after the City's last
16 compliance report was issued.

17 37. Throughout the term of this Decree, the Defendant shall retain all records relating to
18 implementation of all provisions of this Decree. The United States shall have the opportunity to
19 inspect and copy any such records after giving reasonable notice to Counsel for the Defendant.

20 VII. COMPENSATION OF AGGRIEVED PERSONS

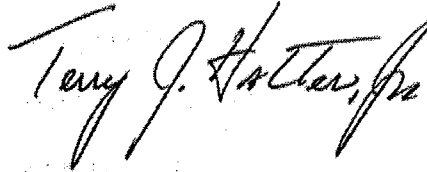
21 38. The Defendant shall pay the sum of three hundred ninety thousand, five hundred
22 ninety-nine dollars and zero cents (\$390,599.00) in compensation for all damages, attorney's fees,
23 and costs related to claims brought by private plaintiffs Rajeeyah Bilal-Varney, Yvonne Carter, and
24 Aurora Beltran. The payment described in this Paragraph shall be made out to the Attorney-Client
25 Trust Account of Brancart & Brancart and sent within fourteen (14) days after the entry of this
26 Decree to Brancart & Brancart, Attn. Chris Brancart, 8205 Pescadero Road, Loma Mar, California
27 94021. Brancart & Brancart shall provide Defendant with its Taxpayer Identification Number prior
28 to receiving payment from Defendant.

1 terms of this Consent Decree, including the reporting requirements set forth in Paragraphs 31-36, and
2 the document retention provision in Paragraph 37.

3 49. Except as otherwise provided herein, each party shall bear its own costs and fees
4 associated with this litigation.

5 **IT IS SO ORDERED:**

6 This 16TH day of June, 2014.

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10 THE HONORABLE TERRY J. HATTER, JR.
11 United States District Judge

12 CC: FISCAL
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STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss
CITY OF SAN JACINTO)

ORDINANCE NO. 14-03

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN JACINTO AMENDING THE SAN JACINTO DEVELOPMENT CODE, REGARDING CONGREGATE LIVING FACILITIES AND GROUP HOMES FOR PERSONS WITH DISABILITIES

WHEREAS, the City of San Jacinto has filed an application for an Ordinance Amendment, as described in the title of this Ordinance. Hereinafter, the subject Ordinance Amendment request shall be referred to as "the Application"; and

WHEREAS, on the 27th day of March, 2014, the Planning Commission of the City of San Jacinto conducted a duly noticed public hearing on the Application and concluded said hearing on that date, and recommended to the City Council that the associated Ordinance Amendment; and

WHEREAS, on the 15th day of April, 2014, the City Council of the City of San Jacinto conducted a duly noticed public hearing on the Application and concluded said hearing on that date, and introduced Ordinance Amendment; and

WHEREAS, based upon the facts and information contained in the written and oral reports for the application, the City Council finds that the proposed Ordinance could not result in a direct or reasonably foreseeable indirect physical change in the environment and that the project is not subject to CEQA in accordance with Section 15060(c)(2) of the California Environmental Quality Act; and

WHEREAS, all legal prerequisites to the adoption of this Ordinance have occurred.

THE CITY COUNCIL OF THE CITY OF SAN JACINTO DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. A new definition contained within Section 17.800.080 of the San Jacinto Development Code (Definitions, "G") is hereby added to read as follows:

"Group Home for Persons with Disabilities means any residence or dwelling, other than a hotel or motel, whose primary purpose is serving one or more persons with disabilities."

Section 2. The definition of "Congregate Living Facility" contained within Section 17.800.040 of the San Jacinto Development Code (Definitions, "C") is hereby amended to read as follows:

"Congregate Living Facility (Land Use). A residence or dwelling, other than a hotel or motel, wherein two or more rooms, with or without individual or group cooking facilities, are rented to individuals under separate rental agreements or leases, either written or oral, whether or not an owner, agent, or rental manager is in residence, in order to preserve the residential character of the neighborhood. Does not include a congregate care facility (see "Community Care Facility") that is properly licensed by the State of California, and does not include an organizational house (see "Organizational House"), and does not include a group home for persons with disabilities (see "Group Home for Persons with Disabilities")."

Section 3. Renumbering. The subsequent definitions contained in Title 17, Article 8 (Definitions) are and shall be renumbered accordingly.

Section 4. A new Section 17.215.050 is hereby added to the San Jacinto Development Code:

"Section 17.215.050 -- Group Home for Persons with Disabilities. Notwithstanding any provision contained in this Development Code to the contrary, group homes for persons with disabilities shall be deemed a permitted use in all residential zone districts within the City."

Section 5. Table 2-2, Allowed Uses and Permit Requirements for Residential Zones is amended by adding the following row:

Land Use Category	RE	RR	RL	RM	RMH	RH	RVH
Group Homes for Persons with Disabilities	P	P	P	P	P	P	P

Section 6. Severability. Should any provision, section, paragraph, sentence or word of this chapter be determined or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this chapter shall remain in full force and effect.

Section 7. Effective Date. This ordinance shall take effect and be in full force on the 30th day from and after its second reading.

Introduced at a regular meeting of the City Council on the 15th day of April, 2014.

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council on the 6th day of May, 2014 by the following vote:

Ayes:	Bartel, Kotyuk, Miller, Ruiz, Ledezma
Nays:	None
Absent:	None
Abstain:	None

City of San Jacinto

Alonso L. Ledezma
Alonso Ledezma, Mayor

ATTEST:

Richard Miller
Richard Miller, City Clerk

CERTIFICATION

**STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE)ss
CITY OF SAN JACINTO)**

I, Richard Miller, hereby certify that the attached is a true copy of Ordinance No. 14-03 introduced by the City Council of the City of San Jacinto, California, at a regular meeting held April 15, 2014. Ordinance No. 14-03 was approved, passed and adopted at a regular meeting held the 6th day of May, 2014.

Witness my hand and official seal of the City of San Jacinto this 6th day of May, 2014.


Richard Miller, City Clerk

