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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

CITY OF JOLIET, an Illinois Municipal Corporation,)

Plaintiff,)

v.)

MID-CITY NATIONAL BANK OF CHICAGO, et al.,)

Defendants.)

TERESA DAVIS, et al.,)

Plaintiffs,)

v.)

CITY OF JOLIET,)

Defendant.)

UNITED STATES EX REL. TERESA DAVIS, et al.,)

Plaintiffs-Relators,)

v.)

CITY OF JOLIET,)

Defendant.)

No. 05 C 6746

No. 07 C 7214

No. 10 C 373

SETTLEMENT AGREEMENT BETWEEN THE CITY OF JOLIET AND TERESA DAVIS, ELVIS FOSTER, ARNETRIS RENEE GRIFFIN, ALFREDA EUBANKS, OSCAR HARRIS, AND THE ESTATE OF HELEN DIRKANS

Conditional upon approval by the Court in each of the above-captioned actions, this Settlement Agreement (“Agreement” or “Settlement Agreement”) is made and entered into by and between Teresa Davis, Elvis Foster, Arnetris Renee Griffin, and Alfreda Eubanks (collectively, the “Tenant Parties”), Oscar Harris and the Estate of Helen Dirkans (collectively, the “Former Tenant Parties”), and the City of Joliet (the “City”). All parties to this Agreement are referred to collectively within as the “Parties.”

The Parties hereby AGREE as follows:

I. INTRODUCTION

1. The Parties are parties in the above-captioned actions, No. 07 C 7214 (the “Civil Rights Action”) and No. 10 C 373 (the “False Claims Act Action”). In addition, the City and the Tenant Parties are parties in No. 05 C 6746 (the “Condemnation Action”). Collectively, these matters are the “Actions.”
2. The Actions are related and arise out of the City’s efforts to exercise its power of eminent domain to acquire Evergreen Terrace I and II (collectively, “Evergreen Terrace” or the “Property”) in Joliet, Illinois and the City’s certifications made by the City as a recipient of federal housing and community development funds to the United States Department of Housing and Urban Development (“HUD”).
3. Besides the Parties to this Agreement, the Condemnation Action includes or formerly included other Defendants, specifically including HUD. The City and HUD previously entered into a settlement agreement that resolved all claims against each other in the Condemnation Action, as well as in other proceedings between the two or between the City and the United States of America (the “Government Settlement”). The Government Settlement was approved by the Court and is attached hereto as Exhibit A. The terms of

this Settlement Agreement shall not be deemed to vary, limit or modify the terms of the Government Settlement except as specifically stated herein, and is not intended to convey to the Tenant Parties or the Former Tenant Parties any third-party beneficiary rights under the Government Settlement Agreement.

4. The Parties now wish to settle and to resolve the claims and defenses they have asserted or may assert against each other. Except as otherwise provided herein, this Settlement Agreement shall be effective upon its approval and entry as an Order of the Court and the entry of the Agreed Orders of Dismissal (the "Effective Date").

II. RESOLUTION OF THE ACTIONS

A. The Condemnation Action.

5. On October 7, 2005, the City filed the above captioned Condemnation Action in the Circuit Court of Will County seeking to acquire fee simple ownership of Evergeen Terrace by eminent domain. *City of Joliet v. Mid-City Nat'l Bank of Chicago et al.* (05 C 6746), Dkt. # 1 (the "Condemnation Action"). The Condemnation Action was removed to federal court and on March 9, 2006, HUD was joined as a Defendant. *See City of Joliet v. Mid-City Nat'l Bank of Chicago et al.*, 05 C 6746, Dkt. #1, 47. On December 21, 2007, Teresa Davis, Elvis Foster, Helen Dirkans, and Oscar Harris sought to intervene as defendants in the Condemnation action. Dkt. # 138. On January 31, 2008, the court granted the tenants' petition for intervention. Dkt. # 144.

6. On October 7, 2011, Alfreda Eubanks and Arnetris Renee Griffin sought to intervene as defendants in the Condemnation action. Dkt. # 297. On November 16, 2011, the court granted the petition for intervention of Ms. Griffin and Ms. Eubanks. Dkt. # 295.¹
7. Attached as Exhibit B to this Agreement is an Agreed Proposed Order of Dismissal for the Condemnation Action. This Settlement Agreement is expressly premised upon the Court's approval of the Settlement Agreement and entry of the Agreed Proposed Order of Dismissal in the form shown in Exhibit B.

B. The Civil Rights Action.

8. On December 21, 2007, Teresa Davis, Elvis Foster, Helen Dirkans, and Oscar Harris filed the above captioned Civil Rights action charging violations of the Fair Housing Act. *Teresa Davis et al. v. City of Joliet*, 07 C 7214. On January 14, 2008, the Civil Rights Action was reassigned pursuant to Local Rule 40.4 to the Honorable Charles R. Norgle, Sr., for all proceedings. Dkt. # 26.
9. On October 7, 2011, Alfreda Eubanks and Arnetris Renee Griffin were added as plaintiffs to the Civil Rights Action referenced in paragraph 8. Dkt. # 48.²
10. The Parties acknowledge and agree that the allegations and transactions that are the subject of the Civil Rights Action are substantially the same as the Fair Housing Act defenses asserted by the Tenant Parties to the Condemnation Action.
11. Attached as Exhibit C to this Agreement is an Agreed Proposed Order of Dismissal for the Civil Rights Action. This Settlement Agreement is expressly premised upon the

¹On October 20, 2011, Oscar Harris was granted leave to withdraw as a defendant to the condemnation action after he voluntarily ended his tenancy at Evergreen Terrace. Dkt. #288. On June 15, 2012, Helen Dirkans died. On September 25, 2012, the court granted Ms. Dirkans' counsel's request to dismiss her from the Condemnation action. Dkt. #91.

² The estate of Helen Dirkans was substituted in for Ms. Dirkans after her death. Dkt. # 93.

Court's approval of the Settlement Agreement and entry of the Agreed Proposed Order of Dismissal in the form shown in Exhibit C.

C. The False Claims Act Action.

12. On January 19, 2010, Teresa Davis, Elvis Foster, Oscar Harris, and Helen Dirkans filed the above captioned False Claims Act action. *United States of America Ex Rel. Teresa Davis et al. v. City of Joliet*, 10 C 373.³ The allegations and transactions that are the subject of the False Claims Act action are identical to those addressed in Section II(C) of Exhibit A.
13. On October 23, 2013, the United States filed a notice of election to decline intervention and to unseal the case. Dkt. #26. On October 23, 2013, the Honorable Chief Judge Ruben Castillo unsealed the case and assigned it to the Honorable Gary Feinerman. Dkt. # 25. The order states that "should the relators or the defendant propose that this action be dismissed, settled, or otherwise discontinued, the Court will solicit the written consent of the United States before ruling or granting its approval." *Id.* at ¶ 7.
14. Attached as Exhibit D to this Agreement is an Agreed Proposed Order of Dismissal for the False Claims Act Action. Without otherwise limiting any other provision herein, this Settlement Agreement is expressly premised upon the approval and entry of the Agreed Proposed Order of Dismissal for the False Claims Act Action by the Court in the form shown in Exhibit D, and the consent of the United States to dismissal of the False Claims Action without prejudice to the United States. Prior to doing this, the Parties will file a joint motion seeking reassignment of the Action to Judge Norgle because it is related to the other Actions currently pending before him and those settled in the Government

³ The estate of Helen Dirkans was substituted in for Ms. Dirkans after her death. Dkt. # 20. Demetrius Dirkans is the son of Ms. Dirkans and at one time resided with her at Evergreen Terrace.

Settlement Agreement, and the Parties believe all Actions between them should be resolved together.

D. Court Approval: Effective Date

15. The parties intend this Settlement Agreement to fully and finally resolve and release all of the Parties' actual and potential interests, allegations, defenses, claims, counterclaims, and rights of appeal that have been or could have been raised by the Parties against each other in the Condemnation Action, Civil Rights Action, and False Claims Act Action.
16. The Parties mutually release each other from all claims they may have against each other at the time of the Agreement, whether or not those claims were or could have been asserted in the Actions. This Settlement Agreement is not intended to resolve or release claims that are not yet in existence, but may arise in the future.
17. This Agreement reflects a compromise of disputed claims and shall not be construed as an admission by any Party. No Party admits liability.
18. This Agreement shall become effective on the date of approval and entry of the last of the Agreed Proposed Orders of Dismissal by the Court.

III. AGREEMENTS REGARDING EVERGREEN TERRACE IF ACQUIRED BY THE CITY.

19. Section III of this Agreement contains certain provisions relating to the Tenant Parties right to remain on the Property or in replacement housing, as set forth below. With respect to each of the Tenant Parties individually, the provisions of this Section III will be in effect: (a) only if the City acquires Evergreen Terrace, as more particularly described in the Government Settlement; (b) only so long as any individual Tenant Party does not fail to exercise the right to receive the benefits set forth in Section III by any act or failure

to act; and (c) only so long as any individual Tenant Party is and remains eligible to live in a housing unit and/or receive the rental assistance that is the subject of Section III, pursuant to the requirements of any applicable source of financing and rental subsidy program and the lease, and any other lawful admission and occupancy requirements subject to HUD approval that are generally imposed on all applicants or residents by the City or the owner of any housing unit subject to Section III. Nothing in this Agreement shall affect, modify or vary the eligibility requirements or terms of the leases entered into by the Tenant Parties or the statutory or regulatory requirements governing eligibility for any particular dwelling unit or subsidy, including lease provisions and federal regulations relating to eviction or loss of subsidy for violating the terms of the lease. Without otherwise limiting the provisions of Section III of this Agreement, with respect to any individual Tenant Party, the Settlement Agreement shall expire at the earlier of: (x) the date that is twenty (20) years from the date the last of the Agreed Proposed Orders of Dismissal is approved and entered by the Court, or (y) the latest of the date any such Tenant Party elects to remain in occupancy of any unit at Evergreen Terrace not subject to the Non-Renewal Option (as defined in the Government Settlement), takes occupancy in a Local Replacement Unit (as defined in paragraph 21), a dwelling unit in a Successor Development (as defined in the Government Settlement), takes occupancy in a dwelling unit in a new residential development at the Property (as described in paragraph 22, or takes occupancy in a dwelling unit subsidized with tenant-based rental assistance (as more particularly described in paragraph 40 of the Government Settlement).

20. If the City acquires Evergreen Terrace and the number of project-based Section 8 units at the Property remains the same, all Tenant Parties who continue to be eligible to reside in

project-based Section 8 units at Evergreen Terrace shall be offered leases for project-based Section 8 units at Evergreen Terrace.

21. If the City acquires Evergreen Terrace and at any point exercises one of its options under Exhibit A (as defined in the Government Settlement) to reduce the number of project-based Section 8 units on the Property, but such housing units remain on the Property, all Tenant Parties who continue to be eligible to reside at Evergreen Terrace shall be given the option to elect to enter into leases for project-based Section 8 units at Evergreen Terrace. This election must be exercised in writing within 45 days of their being given notice of non-renewal of a HAP contract.
22. If the City acquires Evergreen Terrace and the City and HUD subsequently agree to replace all the project-based Section 8 units on the Evergreen Terrace site with project-based Section 8 units elsewhere in Joliet, all Tenant Parties who would have been eligible for project-based Section 8 housing at Evergreen Terrace will be given the option to elect to enter into a lease at a newly-developed or existing unit with a form of project-based subsidy within 2 miles of the current location of Evergreen Terrace (the "Local Replacement Unit") or exercise a right of first refusal to occupy units at the successor development as is set forth in ¶ 46 of Exhibit A, subject to the advance approval of HUD. This election must be exercised in writing within 45 days of their being given notice by the City of its intention to replace all of the project-based Section 8 units on the Evergreen Terrace site with project-based Section 8 units elsewhere in Joliet. Each Tenant Party shall have the right to remain in the Local Replacement Unit so long as he or she remains eligible for that unit under any lawful admission and occupancy

requirements (subject to HUD approval) relating to the subsidy program and the terms of the lease.

23. If the City acquires Evergreen Terrace and new residential development (including any Successor Development as defined in Exhibit A) on the Property includes affordable rental housing, Oscar Harris and Demetrius Dirkans shall have a first selection preference for housing in the new residential development, subject to any necessary approval by HUD and admission to any such Local Replacement Unit shall be subject to the requirements of any applicable source of financing and rental subsidy program, the generally applicable tenant selection criteria for the development, the lease for the development, and any other lawful admission and occupancy requirements generally imposed on all applicants for and residents of the development by the owner. Mr. Harris and Mr. Dirkans shall have 30 days to submit a written application for occupancy from the date the City as owner notifies them that they have begun accepting rental applications for the affordable rental housing units and the market rate rental housing units.

IV. GENERAL PROVISIONS

24. Enforcement. The Parties shall endeavor in good faith to resolve informally any differences regarding interpretation of and compliance with this Settlement Agreement. After such good faith efforts, if during the during of the Agreement any party contends that there has been a failure by the other to perform in a timely manner any act required by the Settlement Agreement, or otherwise to act in conformance with any provision thereof, it may move this Court for relief and for any remedy by law or equity.

25. Miscellaneous Provisions. Each Party will bear its own costs, expenses and attorneys' fees associated with this litigation.
26. This Settlement Agreement is not intended to relieve any obligation otherwise imposed by law and does not create any affirmative obligations except as expressly set forth herein.

List of Exhibits

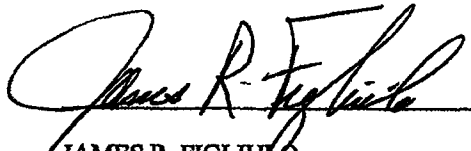
- Exhibit A: HUD, US, and City Settlement Agreement.
- Exhibit B: Agreed Proposed Order of Dismissal for the Condemnation Action.
- Exhibit C: Agreed Proposed Order of Dismissal for the Civil Rights Action.
- Exhibit D: Agreed Proposed Order of Dismissal for the False Claims Act Action.

[Signatures appear on the following pages.]

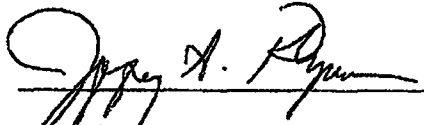
The undersigned hereby consent to and apply for entry of this Settlement Agreement as
an Order of the Court:

For the City of Joliet

Dated: 1/8, 2014



JAMES R. FIGLIULO
Figliulo & Silverman
10 S. LaSalle Street
Suite 3600
Chicago, IL 60603

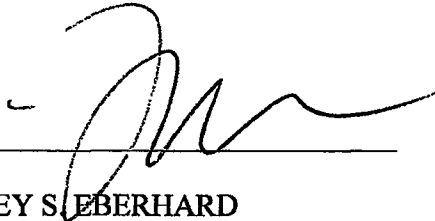


JEFFREY S. PLYMAN
Corporation Counsel, City of Joliet
150 West Jefferson Street, East Wing
Joliet, IL 60432


For Teresa Davis, Elvis Foster, Alfreda Eubanks, Oscar Harris, Arnetris Renee

Griffin, and the Estate of Helen Dirkans:

Dated: January 8, 2014



JEFFREY S. EBERHARD
REENA S. BAJOWALA
JENNER & BLOCK LLP
353 N. Clark Street
Chicago, IL 60654

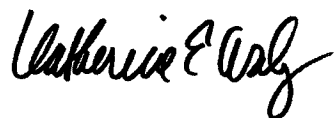


KATHERINE E. WALZ
Sargent Shriver National Center on Poverty Law
50 E. Washington, Suite 500
Chicago, IL 60602

For Plaintiffs-Relators Teresa Davis, Elvis Foster, Oscar Harris, and the Estate of


Helen Dirkans:

Dated: January 8, 2014



KATHERINE E. WALZ
Sargent Shriver National Center on Poverty Law
50 E. Washington, Suite 500
Chicago, IL 60602

Dated: 01-07- _____, 2014


Alfreda Eubanks

Dated: 1-07-2014, 2014

Elvis Foster
Elvis Foster


Dated: Jan 07, 2014

Arnetris R. Griffin
Arnetris Renee Griffin

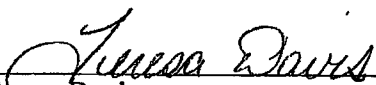
Dated: January 7, 2014

Oscar Harris
Oscar Harris

Dated: Jan 03, ²⁰¹⁴~~2013~~


Helen Dirkans Robinson on behalf of the
Estate of Helen Dirkans


Dated: January 03, 2014



Teresa Davis

The Court hereby approves this settlement agreement and enters it as an Order of the Court.

IT IS SO ORDERED this 10TH day of JANUARY, 2014.



The Honorable Charles R. Norgle Sr.
UNITED STATES DISTRICT JUDGE