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CIVIL RIGHTS DIVISION
TUCSON OFFICE

13 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

14 IN AND FOR THE COUNTY OF MARICOPA

15 THE STATE OF ARIZONA *ex rel.* TERRY
16 GODDARD, the Attorney General; and THE
17 CIVIL RIGHTS DIVISION OF THE ARIZONA
18 DEPARTMENT OF LAW,

19 Plaintiff,

20 vs.

21 MESA VILLAGE MOBILE HOME PARK;
22 MESA VILLAGE ASSOCIATES, LLC; CAL-
23 AM PROPERTIES, INC.,

24 Defendants.

No. CV2008-030441

CONSENT DECREE

(Honorable Edward O. Burke)

25 On November 3, 2008, Plaintiff, the State of Arizona, through Attorney General Terry
26 Goddard and the Civil Rights Division (collectively the "State"), filed the above-captioned

1 Complaint in Pima County Superior Court against Defendants Mesa Village Mobile Home
2 Park, Mesa Village Associates, LLC, and CAL-AM Properties, Inc. (“collectively
3 “Defendants”), Arizona corporations, alleging that they discriminated against Ella Loy Boyd, a
4 disabled resident of Mesa Village Mobile Home Park (“Mesa Village”), in violation of A.R.S.
5 § 41-1491.19 by failing to provide a reasonable accommodation for her disability while she
6 was a resident at Mesa Village, a mobile home park owned and managed by Defendants. The
7 Court granted a motion for change of venue on November 14, 2008 and the case was
8 transferred to Maricopa County Superior Court.

9 Specifically, the State’s Complaint alleged that Mrs. Boyd is an individual with a
10 disability because she has a mental impairment that significantly limits one or more major life
11 activity and that Defendants failed to accommodate her disability when it began eviction
12 proceedings against her on March 25, 2008. On that day, Defendants served Mr. Herb Boyd
13 and Mrs. Boyd with a Notice of Termination of Rental Agreement for immediate termination.
14 Defendants based the termination on an incident that occurred on March 23, 2008 during
15 which Mrs. Boyd allegedly threatened the manager with physical harm and attempted to break
16 into the home of another tenant. Defendants deny the allegations asserted in the Complaint
17 and admit no liability in entering into the Consent Decree.

18 The State and Defendants desire to resolve the issues raised by the Complaint without
19 the time, expense and uncertainty of further contested litigation. Defendants and the Division
20 expressly acknowledge that this Decree is the compromise of disputed claims and that there
21 was no adjudication of any claim. Defendants agree to be bound by this Decree and not to
22 contest that it was validly entered into in any subsequent proceeding to implement or enforce
23 its terms. The parties, therefore, have consented to the entry of this Decree, waiving trial,
24 findings of fact, and conclusions of law. In exchange for the promises in this Agreement, Mr.
25 and Mrs. Boyd have agreed to execute a separate release incorporated by reference as
26 Appendix A. The execution and delivery of said release within ten (10) days of the effective

1 date of this Consent Decree is a condition precedent to Defendants' obligations in paragraphs
2 6 and 8 hereof.

3 It appearing to the Court that entry of this Decree will further the objectives of the
4 Arizona Fair Housing Act ("AFHA"), and that the Decree fully protects the parties and the
5 public with respect to the matters within the scope of this Decree,

6 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** as follows:

7 **JURISDICTION**

8 1. This Court has jurisdiction over the subject matter of this action and over the
9 parties hereto, and venue in Maricopa County is proper. The allegations of the Complaint, if
10 proved, are sufficient to state a claim upon which relief could be granted against Defendants
11 under the AFHA.

12 **RESOLUTION OF THE COMPLAINT**

13 2. This Decree resolves all issues and claims set forth in the State's Complaint.
14 This Decree also resolves all issues relating to acts and practices of discrimination to which
15 this Decree is directed.

16 **RELEASE**

17 3. Except for the obligations of Defendants that are expressly set forth in this
18 Decree, Defendants, and their respective officers, directors, managers, members, agents,
19 employees, successors, assigns and all persons in active concert or participation with
20 Defendants, are released from any and all civil liability to the State for the counts alleged in
21 the Complaint in this matter.

22 **COMPLIANCE WITH AFHA**

23 4. Defendants agree that they will abide by the Arizona Fair Housing Act.

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26 ////

1 **NO RETALIATION**

2 5. Defendants shall not retaliate against Mr. or Mrs. Boyd or any person in any way
3 for that person's opposition to a practice made unlawful by the AFHA, or for participation in
4 the State's proceedings or litigation in this case.

5 **MONETARY RELIEF FOR AGGRIEVED PARTIES**

6 6. Defendants shall provide full rent concessions to Mr. and Mrs. Boyd for twenty
7 consecutive months to commence on the rental due date in August 2009. The Boyds will
8 continue to receive a monthly rental statement throughout the twenty month period of rent
9 concessions.

10 7. If Mr. and Mrs. Boyd are properly and non-retaliatorily evicted for non-
11 compliance with the terms of the lease or Mesa Village property rules, the rent concessions
12 shall cease on the last month the Boyds owe rent to Mesa Village. Mr. and Mrs. Boyd will not
13 be required to refund any rent concession already paid and Defendants will not owe a lump
14 sum to the Boyds to complete the twenty month rent concession term set out in Paragraph 6 of
15 this Agreement.

16 8. Defendants agree to execute a separate four-year lease contract between Mr. and
17 Mrs. Boyd in the form attached hereto as Appendix C and to deliver same to the Boyds within
18 ten (10) days of the Effective Date of this Consent Decree. Said lease shall be effective if
19 signed by the Boyds and delivered to Defendants within ten (10) days after delivery of the
20 lease.

21 9. Mr. and Mrs. Boyd agree to comply with the terms of their lease and with the
22 rules of Mesa Village.
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1 **PROVISION OF DOCUMENTATION REGARDING TREATMENT**

2 10. Beginning six months from the date this Agreement is executed, Mrs. Boyd will
3 provide, on a semi-annual basis, a statement from her case manager that affirms that she has
4 been compliant with her psychiatric treatment plan.

5 11. If Mrs. Boyd fails to provide the statement as it is required by Paragraph 10 of
6 this Agreement, Defendants will provide Mrs. Boyd a thirty day written notice of non-
7 compliance with the terms of this Agreement prior to taking any action against the Boyds'
8 tenancy at Mesa Village. If Mrs. Boyd provides the notice required by Paragraph 10 during
9 that 30 day period, Mesa Village will not take action against the Boyds' tenancy.

10 **POLICY CHANGES**

11 12. **Policy of Non-Discrimination:** Within 60 days of the effective date of the
12 Consent Decree, Defendants agree to create a policy, or affirm that there is an existing policy,
13 that prohibits all forms of discrimination covered by the Arizona Fair Housing Act. At a
14 minimum, the policy shall advise residents that 1) discrimination is prohibited by state and
15 federal fair housing laws, 2) discrimination is contrary to the policy of Defendants, 3) a
16 resident with a disability may make a request for reasonable accommodation in rules, policies,
17 practices, or services or request a reasonable modification of an existing premise and the
18 procedure by which to make such requests, and 4) any resident who feels that he or she has
19 experienced discrimination in violation of the policy should promptly contact the individual
20 designated in the policy and report the discriminatory conduct. This policy will include a
21 procedure for Defendants to investigate and attempt to address a resident's complaint.
22 Defendant Cal-Am Properties, Inc., affirms that as of the date hereof it has in place an existing
23 policy that fully complies with this paragraph; a copy of which will be provided to the Division
24 within sixty (60) days of the effective date of the Consent Decree.

25 13. **Policy for Reasonable Accommodation Requests:** Within 60 days of the
26 effective date of the Consent Decree, Defendants will create or revise an existing reasonable

1 accommodation policy that sets out a procedure for residents and/or potential residents to
2 request reasonable accommodations and reasonable modifications. This policy will include, at
3 minimum, 1) a statement that reasonable accommodations and reasonable modifications may
4 be requested orally or in writing; 2) a requirement that a Mesa Village property manager
5 discuss the reasonable accommodation or reasonable modification request with a designated
6 regional property manager *if* he or she decides to refuse the request; and 3) a procedure by
7 which the designated regional property manager must review a property manager's decision to
8 refuse an accommodation or modification request. This policy will be disseminated to the
9 regional property manager, the Mesa Village property managers and any other Mesa Village
10 employee with authority to make decisions regarding reasonable accommodation and
11 modification requests. Defendant Cal-Am Properties, Inc., confirms that as of the date hereof,
12 Mesa Village fully complies with this paragraph; a copy of which will be provided to the
13 Division within sixty (60) days of the effective date of the Consent Decree.

14 **14. Policy for Assessing Direct Threat:** Within 60 days of this effective date of the
15 Consent Decree, Defendants will create a written policy for assessment of safety risk to be
16 completed prior to proceeding with eviction proceeding against individuals with disabilities
17 that management believes to pose a risk to the health and safety of other tenants. The
18 assessment policy must consider, based on reliable objective evidence, which can include
19 recent history of overt acts, any intervening treatment or medication, and statements from case
20 managers and treating physicians, 1) the nature, duration, and severity of the risk of injury; 2)
21 the probability that injury will actually occur; and 3) whether there are any reasonable
22 accommodations that will eliminate the direct threat. This policy will be made available to
23 residents and Mesa Village employees in positions responsible for conducting individualized
24 assessments, reviewing accommodation requests, and deciding to proceed with eviction
25 proceedings against an individual with a disability. Defendant Cal-Am Properties, Inc.,
26 confirms that as of the date hereof, Mesa Village fully complies with this paragraph; a copy of

1 which will be provided to the Division within sixty (60) days of the effective date of the Consent
2 Decree.

3 **POSTER**

4 15. Defendants shall keep posted at all times in a conspicuous, well-lighted
5 place, at Defendants' main office a poster provided by the State which states, in English and
6 Spanish, that housing discrimination based on race, color, religion, sex, familial status,
7 national origin, or disability is prohibited.

8 **TRAINING**

9 16. Within ninety (90) days of the effective date of this Decree, each of Defendants'
10 property managers at Mesa Village and CAL-AM's Regional Manager for Arizona shall
11 receive an interactive training with a qualified trainer on the provisions of the Fair Housing
12 Act and the Arizona Fair Housing Act. Such training will include, at minimum, the following
13 topics: the protections offered to individuals with disabilities by the Arizona Fair Housing Act,
14 including reasonable accommodations and reasonable modifications; an overview of "direct
15 threat," how to conduct an individualized assessment of direct threat prior to taking any action
16 against a tenant with a disability, and the obligation to consider reasonable accommodations to
17 eliminate the direct threat prior to determining that a tenant poses a direct threat; and
18 awareness and sensitivity training about serious mental illness. Defendants would agree to
19 repeat this training annually for the duration of the Consent Decree and to ensure that all new
20 employees be provided the training within 30 days of hire. The training shall consist of at
21 least two (2) hours of instruction, which shall be videotaped for future presentations. The
22 Defendants shall pay for all costs associated with such training, and shall have the training
23 curriculum approved in advance by the State. Within thirty (30) days following completion of
24 this training, Defendants shall provide notice to the State confirming the date, time, and
25 location of the training, and a list of the names and positions of those persons who attended the
26 training. Subsequently, Defendants shall present the videotaped training and provide copies of

1 the training materials to all new Mesa Village property managers and Mesa Village employees
2 within thirty (30) days of their hire.

3 **CONTINUING JURISDICTION OF THE COURT**

4 17. The Court shall retain jurisdiction over both the subject matter of this Consent
5 Decree and the State and Defendants for two (2) years from the date of entry of the Decree to
6 effectuate and enforce this Decree. The State may, for good cause shown, petition this Court
7 for compliance with this Decree at any time during the period that this Court maintains
8 jurisdiction over this action. Should the Court determine that Defendants have not complied
9 with this Decree, appropriate relief, including extension of this Decree for such period as may
10 be necessary to remedy its non-compliance, may be ordered. In the event either the State does
11 not submit any petitions for compliance with the Decree or the Court determines Defendants
12 have complied with the Decree, the Decree shall automatically expire and the Court shall lose
13 jurisdiction over this action on the date two (2) years after entry of the Decree.

14 **MISCELLANEOUS PROVISIONS**

15 18. This Decree shall be binding on Defendants, its agents, employees, successors,
16 assigns and all persons in active concert or participation with Defendants.

17 19. The State and Defendants represent that they have read this Decree in its entirety
18 and are satisfied that they understand and agree to all its provisions, and represent that they
19 have freely signed this Decree without coercion.

20 20. This Decree shall be governed in all respects by the laws of the State of Arizona.
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APPENDIX A

Release and Waiver of Liability

THIS IS A RELEASE AND WAIVER OF LIABILITY (hereinafter referred to as "Release") made this 18 day of ~~September~~ ^{December}, 2009, by and between Mesa Village Associates, LLC dba Mesa Village Mobile Home Park, and CAL-AM Properties, Inc. (hereinafter collectively "Defendants") and Ella Loy and Herb Boyd (hereinafter referred to as "Aggrieved Person(s)").

The parties hereby agree as follows:

1. The Aggrieved Persons hereby fully release and discharge Defendants and their respective officers, directors, managers, members, employees, agents and contractors from any and all liability, claims, demands, injuries, actions or causes of action, including attorneys' fees and costs, as a result of, related to or arising out of, from or in connection with the facts alleged in the Complaint in said action, the claims brought in *State v. Mesa Village Mobile Home Park*, CV2008-030441 in consideration of the agreements and covenants set out in the Settlement Agreement to which this Release is attached and incorporated by reference.
2. This Release supersedes and replaces all prior negotiations and all agreements proposed or otherwise, whether written or oral, concerning all subject matters covered herein.
3. If one or more of the provisions of this Release shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect or impair any other provision of this Release. This Release shall be construed as if such invalid, illegal, or unenforceable provision(s) had not been contained in the Release.

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MESA VILLAGE ASSOCIATES, LLC
dba Mesa Village Mobile Home Park

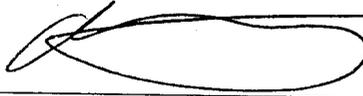
By: 
Kenneth L. Friedman, its
Manager

Date 11/19/09

AGGRIEVED PERSONS

By: _____
Name: _____
Date: _____

CAL-AM PROPERTIES INC.

By: 

Date 12.1.09

By: _____
Name: _____
Date: _____

1 MESA VILLAGE ASSOCIATES, LLC
2 dba Mesa Village Mobile Home Park

AGGRIEVED PERSONS

3
4 By: _____

By: HERB BOYD

5 Name: Herb Boyd

6 Date: 11/24/09

7 Date _____

8 CAL-AM PROPERTIES INC.

By: Ellen Loy Boyd

9 Name: Ellen Loy Boyd

10 Date: 11/24/09

11 By: _____

12 Date _____

1 APPENDIX B
2 SIGNATURE ADDENDUM FOR CONSENT DECREE
3 CV2008-030441

4 1. On behalf of Mesa Village Associates LLC dba Mesa Village Mobile Home Park
5 (the "Company"), an Arizona limited liability corporation, I acknowledge as its Manager that I
6 have read the foregoing Consent Decree, am aware of the partnership's right to a trial in this
7 matter, and have waived that right. I further acknowledge that the Company agrees to the
8 jurisdiction of the Court and consents to entry of this Consent Decree.

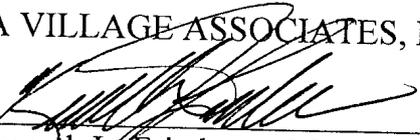
9 2. I acknowledge that no promise of any kind or nature whatsoever (other than the
10 terms of this Consent Decree) was made to induce the Company to enter into this Consent
11 Decree, that it has entered into this Consent Decree voluntarily.

12 3. I acknowledge that this Consent Decree constitutes the entire agreement between
13 the Company and the State.

14 4. As the Manager, I have been authorized to enter into this Consent Decree for and
15 on behalf of the Company.

16 DATED this 19th day of ~~September~~ ^{November}, 2009.

17 MESA VILLAGE ASSOCIATES, LLC

18 By 
19 Kenneth L. Friedman, Manager

20 State of California)
21) ss.
22 County of Los Angeles)

23 SUBSCRIBED AND SWORN to before me this _____ day of
24 _____, 2009, by _____

25 _____
26 Notary Public

My Commission Expires: _____

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

Subscribed and sworn to (or affirmed) before me on this 19th day of November, 2009, by Kenneth L. Friedman, proved to me on the basis of satisfactory evidence to be the person(~~s~~) who appeared before me.

WITNESS my hand and official seal.

(SEAL)



Greta C. Mack
Notary Public in and for said County and State
Print Name: GRETA C. MACK
My Commission Expires: 12/26/2011

1 **CONSENT TO DECREE**

2 1. On behalf of CAL-AM Properties, Inc., a California corporation ("CAL-AM"), I
3 acknowledge as Chief Executive Officer that I have read the foregoing Consent Decree, am
4 aware of the corporation's right to a trial in this matter, and have waived that right. I further
5 acknowledge that CAL-AM agrees to the jurisdiction of the Court and consents to entry of this
6 Consent Decree.

7 2. I acknowledge that no promise of any kind or nature whatsoever (other than the
8 terms of this Consent Decree) was made to induce CAL-AM to enter into this Consent Decree,
9 that it has entered into this Consent Decree voluntarily.

10 3. I acknowledge that this Consent Decree constitutes the entire agreement between
11 CAL-AM and the State.

12 4. As a Member, I have been authorized to enter into this Consent Decree for and
13 on behalf of CAL-AM.

14 DATED this 1st day of ~~September~~^{DECEMBER}, 2009.

15 CAL-AM Properties, Inc.

16 By [Signature]

17 Cory Sukert, Chief Executive Officer

18 State of California)
19) ss.
20 County of Los Angeles)

21 SUBSCRIBED AND SWORN to before me this 1 day of
22 December, 2009, by Cory S. Sukert

23 [Signature]
24 Notary Public

25 My Commission Expires: Jan 17, 2010

26 U:\ATTORNEYS\RAS\Cal Am Mesa Village_Boyd Herb.16536-15\Consent Decree\TUC-#53422-v2-MFESA_VILLAGE_CONSENT_DECREE 7-20-09.rev9209.doc

