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13 Attorneys for Plaintiff State of Arizona

NOV - 6 2008

10 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**  
11 **IN AND FOR THE COUNTY OF PIMA**

12 THE STATE OF ARIZONA, *et al.*,

13 Plaintiff-Counterdefendant,

14 &

15 JAMES LARCOM and SABRINA EZELL,  
16 husband and wife,

17 Intervenor Plaintiffs-Counterdefendants,

18 vs.

19 FGPJ APARTMENTS; *et al.*,

20 Defendants-Counterclaimants,

21 vs.  
22

23 ROSE DALY-ROONEY and JOHN DOE  
24 DALY-ROONEY, *et al.*,

25 Additional Counterdefendants.  
26  
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28

No. C20073030

**ORDER TO ENTER  
CONSENT DECREE**

**(Assigned to Hon. Paul Tang)**



1 TERRY GODDARD  
2 Attorney General  
3 Firm State Bar No. 14000

4 Rose Daly-Rooney, AZ Bar No. 015690  
5 Cathleen M. Dooley, AZ Bar No. 022420  
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10 (520) 628-6780; (520) 628-6765 (fax)  
11 Rose-Daly-Rooney@azag.gov  
12 Cathleen.Dooley@azag.gov

13 Attorneys for Plaintiff

14 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**  
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24 Defendants-Counterclaimants,

25 vs.

26 ROSE DALY-ROONEY and JOHN DOE  
27 DALY-ROONEY, *et al.*,

28 Additional Counterdefendants.

No. C20073030

**CONSENT DECREE**

**(Assigned to Hon. Paul E. Tang)**

On June 1, 2007, Plaintiff, the State of Arizona, through Attorney General Terry Goddard and the Civil Rights Division (collectively the "State"), filed the above-captioned

1 Complaint in Pima County Superior Court against Defendants, FGPJ Apartments, National  
2 City Neighborhood, an Arizona limited liability company, Frank and Gabriela Konarski,  
3 husband and wife, Frank Edward Konarski, John Frank Konarski, and Patricia Konarski  
4 (collectively "Defendants"), alleging that they discriminated against James Larcom and  
5 Sabrina Ezell, husband and wife, in violation of A.R.S. § 41-1491.18 and A.R.S. § 41-  
6 1491.19. On November 7, 2007, Mr. Larcom and Ms. Ezell filed a Complaint in  
7 Intervention also alleging violations of the Arizona Fair Housing Act.

8 Defendants deny the allegations asserted in the Complaints and admit no  
9 liability in entering into the Consent Decree.

10 The State, Intervenor Plaintiffs, and Defendants desire to resolve the issues  
11 raised by the Complaints without the time, expense and uncertainty of further contested  
12 litigation. Defendants, the State, and Intervenor Plaintiffs expressly acknowledge that this  
13 Decree is the compromise of disputed claims and that there was no adjudication of any  
14 claim. Defendants agree to be bound by this Decree and not to contest that it was validly  
15 entered into in any subsequent proceeding to implement or enforce its terms. The parties,  
16 therefore, have consented to the entry of this Decree, waiving trial, findings of fact, and  
17 conclusions of law. In exchange for the promises in this Agreement, the Parties have  
18 agreed to execute a separate settlement agreement and general release, which is  
19 incorporated by reference.

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

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

24 **JURISDICTION**

25 1. This Court has jurisdiction over the subject matter of this action and over the  
26 parties hereto, and venue in Pima County is proper. The allegations of the Complaints, if  
27 proved, are sufficient to state a claim upon which relief could be granted against  
28 Defendants under the AFHA.

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**RESOLUTION OF THE COMPLAINT**

2. This Decree resolves all issues and claims set forth in the State's and Intervenor Plaintiff's Complaints. This Decree does not supercede the statutory obligations of the Arizona Attorney General's office under A.R.S. §§ 41-1491.22-35.

**RELEASE**

3. Except for the obligations of Defendants that are expressly set forth in this Decree, Defendants, its agents, employees, successors, assigns and all persons in active concert or participation with Defendants, are released from any and all civil liability to the State and Intervenor Plaintiffs for the counts alleged in the Complaints in this matter.

**COMPLIANCE WITH AFHA**

4. Although no decision was reached on the merits of these Complaints, Defendants agree that there shall be no discrimination or retaliation of any kind against Mr. Larcom, Ms. Ezell, or any other person because they have opposed any practice reasonably believed by them to be unlawful under A.R.S. § 41-1491.14 through A.R.S. § 41-1491.21, or the Federal Fair Housing Act, §§ 818 or 901, or because they have filed a complaint, given testimony or assistance, or participated in any manner in any investigation or proceeding under the AFHA or the FHA, including the proceedings and litigation in this case.

**MONETARY RELIEF**

5. Within ten (10) business days of the effective date of the separate Settlement Agreement and General Release, Defendants shall pay to the State the sum of \$50,000 for the enforcement of this Consent Decree and civil rights in Arizona. The payment shall be made by check payable to the Arizona Attorney General and delivered to Rose Daly-Rooney or Cathleen M. Dooley, Assistant Attorneys General, at 400 W. Congress, South Building, Suite S-215, Tucson, Arizona 85701 or their successors.

1 6. Within ten (10) business days of the effective date of the separate Settlement  
2 Agreement and General Release, Defendants shall pay to Mr. Larcom and Ms. Ezell the  
3 sum of \$100,000 by check made payable to Waterfall, Economidis, Caldwell, Hanshaw,  
4 and Villamana, P.C. in Trust for Sabrina Ezell and James Larcom and delivered to Jenne  
5 S. Forbes or Amanda Damianakos at 5210 E. Williams Circle, Suite 800, Tucson,  
6 Arizona 85711.

7 7. The payments referenced in paragraph 6 and 7 are in addition to any attorneys  
8 fees awarded to the State and Intervenor Plaintiffs for responding to the Special Action  
9 filed by Defendants in this litigation.

10 **OTHER RELIEF**

11 8. Defendants shall, no later than the effective date of the separate Settlement  
12 Agreement and General Release, deliver a fully executed original of the Stipulation to  
13 Vacate the Judgment entered in Pima County Consolidated Justice Courts identified as  
14 "FGPJ Apartments dba, etc., Frank J. and Gabriela Konarski v. Sabrina Ezell and James  
15 P. Larcom," No. CV-07-003480 in the form attached to the separate Settlement  
16 Agreement and General Release as Exhibit 1, to Jenne S. Forbes or Amanda  
17 Damianakos at 5210 E. Williams Circle, Suite 800, Tucson, Arizona 85711. Said  
18 counsel shall file the Stipulation to Vacate within five (5) days of receipt.

19 9. Defendants shall, no later than the effective date of the separate Settlement  
20 Agreement and General Release, deliver a fully executed Stipulation of Dismissal with  
21 Prejudice of all counterclaims pending in before the Court in C20073030, in the form  
22 attached to the separate Settlement Agreement and General Release as Exhibit 2, to Rose  
23 Daly-Rooney or Cathleen M. Dooley at 400 W. Congress, South Building, Suite S-215,  
24 Tucson, Arizona 85701 or their successors. The State shall file the Stipulation for  
25 Dismissal with the Court within five (5) days of receipt.  
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13. The State and Defendants represent that they have read this Decree in its entirety and are satisfied that they understand and agree to all its provisions, and represent that they have freely signed this Decree without coercion.

14. This Decree shall be governed in all respects by the laws of the State of Arizona.

15. The State and Defendants shall bear their respective attorneys' fees and costs incurred in this action up to the date of entry of this Decree. In any action brought to assess or enforce Defendants' compliance with the terms of this Decree, the Court may in its discretion award reasonable costs and attorneys' fees to the prevailing party.

**EFFECTUATING CONSENT DECREE**

16. The parties agree to the entry of this Decree upon final approval by the Court. The effective date of this Decree shall be the date that it is entered by this Court.

ENTERED AND ORDERED this \_\_\_\_ day of \_\_\_\_\_ 2009.

\_\_\_\_\_  
Hon. Paul E. Tang  
Pima County Superior Court



1 **CONSENT TO ENTER INTO CONSENT DECREE**

2  
3 1. I, Gabriela Konarski, an owner and operator of FGPI Apartments, acknowledge  
4 that I have read the foregoing Consent Decree, and am aware of the right to a trial in this  
5 matter and have waived that right.

6 2. I agree to the jurisdiction of the Court, and consents to entry of this Consent  
7 Decree.

8 3. I state that no promise of any kind or nature whatsoever (other than the terms of  
9 this Consent Judgment) was made to induce it to enter into this Consent Decree, that it has  
10 entered into this Consent Judgment voluntarily, and that this Consent Decree constitutes  
11 the entire agreement between the parties.

12 4. I further state that I have been represented by counsel in this case, and that the  
13 terms of this Consent Judgment have been explained to me to my satisfaction, and are fully  
14 understood by it.

15 DATED this 24 day of October, 2009.

16  
17 Gabriela Konarski  
18 GABRIELA KONARSKI

19 SUBSCRIBED AND SWORN to before me this 23<sup>rd</sup> day of October, 2009, by  
20 Gabriela Konarski.

21 Nervana M. White  
22 Notary Public

23 My Comm. Expires:  
24 7/16/2013



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**CONSENT TO ENTER INTO CONSENT DECREE**

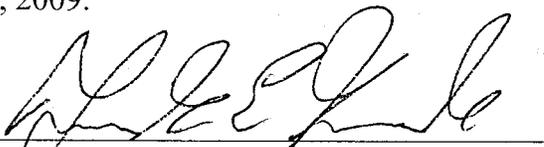
1. I, Frank Edward Konarski, an owner and operator of FGPI Apartments, acknowledge that I have read the foregoing Consent Decree, and am aware of the right to a trial in this matter and have waived that right.

2. I agree to the jurisdiction of the Court, and consents to entry of this Consent Decree.

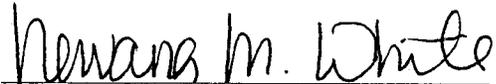
3. I state that no promise of any kind or nature whatsoever (other than the terms of this Consent Judgment) was made to induce it to enter into this Consent Decree, that it has entered into this Consent Judgment voluntarily, and that this Consent Decree constitutes the entire agreement between the parties.

4. I further state that I have been represented by counsel in this case, and that the terms of this Consent Judgment have been explained to me to my satisfaction, and are fully understood by it.

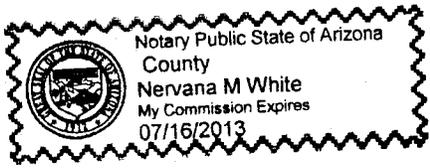
DATED this 23<sup>RD</sup> day of October, 2009.

  
FRANK EDWARD KONARSKI

SUBSCRIBED AND SWORN to before me this 23<sup>rd</sup> day of October, 2009, by Frank Edward Konarski.

  
Notary Public

My Comm. Expires:  
7/16/2013



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**CONSENT TO ENTER INTO CONSENT DECREE**

1. I, John F. Konarski, an owner and operator of FGPI Apartments, acknowledge that I have read the foregoing Consent Decree, and am aware of the right to a trial in this matter and have waived that right.

2. I agree to the jurisdiction of the Court, and consents to entry of this Consent Decree.

3. I state that no promise of any kind or nature whatsoever (other than the terms of this Consent Judgment) was made to induce it to enter into this Consent Decree, that it has entered into this Consent Judgment voluntarily, and that this Consent Decree constitutes the entire agreement between the parties.

4. I further state that I have been represented by counsel in this case, and that the terms of this Consent Judgment have been explained to me to my satisfaction, and are fully understood by it.

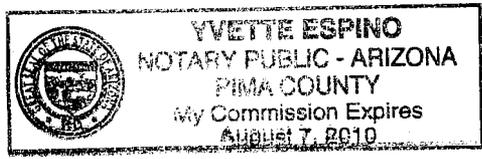
DATED this 24 day of October, 2009.

John F. Konarski  
JOHN F. KONARSKI

SUBSCRIBED AND SWORN to before me this 24 day of October, 2009, by John F. Konarski.

Yvette Espino  
Notary Public

My Comm. Expires:  
Aug. 7, 2010



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**CONSENT TO ENTER INTO CONSENT DECREE**

1. I, Patricia Konarski, an owner and operator of FGPI Apartments, acknowledge that I have read the foregoing Consent Decree, and am aware of the right to a trial in this matter and have waived that right.

2. I agree to the jurisdiction of the Court, and consents to entry of this Consent Decree.

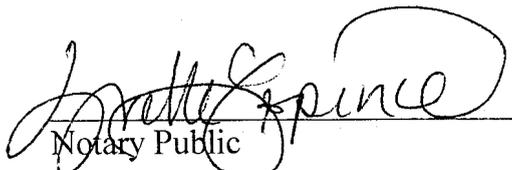
3. I state that no promise of any kind or nature whatsoever (other than the terms of this Consent Judgment) was made to induce it to enter into this Consent Decree, that it has entered into this Consent Judgment voluntarily, and that this Consent Decree constitutes the entire agreement between the parties.

4. I further state that it has been represented by counsel in this case, and that the terms of this Consent Judgment have been explained to me to my satisfaction, and are fully understood by it.

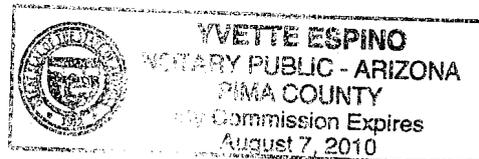
DATED this 24 day of October, 2009.

  
\_\_\_\_\_  
PATRICIA KONARSKI

SUBSCRIBED AND SWORN to before me this 24 day of October, 2009, by Patricia Konarski.

  
\_\_\_\_\_  
Notary Public

My Comm. Expires:  
Aug. 7, 2010





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**CONSENT TO ENTER INTO CONSENT DECREE**

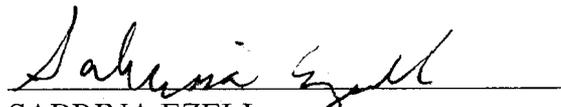
1. I, Sabrina Ezell, an aggrieved person on whose behalf this lawsuit was brought and an Intervenor in the State's lawsuit, acknowledge that I have read the foregoing Consent Decree.

2. I agree to the jurisdiction of the Court, and consent to entry of this Consent Decree.

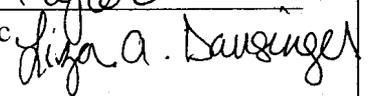
3. I state that no promise of any kind or nature whatsoever (other than the terms of this Consent Judgment) was made to induce it to agree to the terms of the Consent Decree, that I have entered into this Consent Decree voluntarily, and that this Consent Decree constitutes the entire agreement between the parties.

4. I further state that I have been represented by counsel in this case, and that the terms of this Consent Decree have been explained to me to my satisfaction, and are fully understood by me.

DATED this 27<sup>th</sup> day of October, 2009.

  
SABRINA EZELL

SUBSCRIBED AND SWORN to before me this 27<sup>th</sup> day of October, 2009, by Sabrina Ezell.

  
Notary Public 

My Comm. Expires:

11/27/10



1 **CONSENT TO ENTER INTO CONSENT DECREE**

2  
3 1. I, James Larcom, an aggrieved person on whose behalf this lawsuit was brought  
4 and an Intervenor in the State's lawsuit, acknowledge that I have read the foregoing  
5 Consent Decree.

6 2. I agree to the jurisdiction of the Court, and consent to entry of this Consent  
7 Decree.

8 3. I state that no promise of any kind or nature whatsoever (other than the terms of  
9 this Consent Judgment) was made to induce it to agree to the terms of the Consent Decree,  
10 that I have entered into this Consent Decree voluntarily, and that this Consent Decree  
11 constitutes the entire agreement between the parties.

12 4. I further state that I have been represented by counsel in this case, and that the  
13 terms of this Consent Decree have been explained to me to my satisfaction, and are fully  
14 understood by me.

15 DATED this 27<sup>th</sup> day of October, 2009.

16  
17 James Larcom  
18 JAMES LARCOM

19 SUBSCRIBED AND SWORN to before me this 27<sup>th</sup> day of October, 2009, by  
20 James Larcom.

21 Liza D. Taylor  
22 Notary Public Liza A. Dausinger

23 My Comm. Expires:  
24 11/27/10



1 Approved as to form and content:

<p>2</p> <p>3 TERRY GODDARD Attorney General</p> <p>4</p> <p>5</p> <p>6 By <u>Rose A. Daly-Rooney</u> Rose A. Daly-Rooney Cathleen M. Dooley Assistant Attorneys General</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11 Date <u>October 26, 2009</u></p> <p>12</p> <p>13</p>	<p>WATERFALL ECONOMIDIS, CALDWELL HANSHAW &amp; VILLAMANA, P.C.</p> <p>By <u>Jenne S. Forbes</u> Jenne S. Forbes Amanda V. Damianakos Attorneys for James Larcom and Sabrina Ezell</p> <p>Date <u>October 24, 2009</u></p>
<p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>26</p> <p>27</p> <p>28</p>	<p>BURKE-PANZARELLA RICH Goering, Roberts, Rubin, Brogan, Enos + Trendwell-Rubin</p> <p>By <u>Chris Enos</u> Thomas P. Burke, II- Chris Enos Attorney for Defendants FGPI Apts., National City Neighborhood, LLC, Frank J. Konarski; Gabriela Konarski; Frank Edward Konarski; John Frank Konarski; Patricia Konarski; ABC Corporations I-X.</p> <p>Date <u>October 26, 2009</u></p>