

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

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
HOUSING AUTHORITY OF)
ASHLAND, AL, SOUTHERN)
DEVELOPMENT COMPANY OF)
ASHLAND, LTD., SOUTHERN)
DEVELOPMENT COMPANY OF)
ASHLAND #2, LTD., and SOUTHERN)
DEVELOPMENT COMPANY, LLC,)
)
Defendants.)
)
_____)

Case No.: 1:20-cv-01905-ACA

CONSENT DECREE

I. INTRODUCTION

The United States initiated this action on December 1, 2020, against the Housing Authority of Ashland, AL (“Housing Authority”), and Southern Development Company of Ashland, Ltd., Southern Development Company of Ashland #2, Ltd., and Southern Development Company, LLC (“Ashland Heights Owners”) (collectively, “Defendants”), to enforce the Fair Housing Act, 42 U.S.C. §§ 3601 *et seq.* (“FHA”). The United States filed an amended complaint on January 25, 2021.

At all times relevant to this action, Defendant Housing Authority has owned, operated, and/or managed six (formerly) public housing communities in Ashland, Alabama, containing 198 units, known as East Side, West Side, North Side, Runyan Court, Pine View, and Clay Circle (referred to in this Consent Decree as the “public housing” communities). Defendants Ashland Heights Owners have owned and/or managed two additional low-income housing communities in Ashland, Alabama, known as Ashland Heights I and Ashland Heights II (collectively, “Ashland Heights”), with a total of 56 units. The Ashland Heights Owners have delegated to the Housing Authority the day-to-day management and operation of Ashland Heights, which includes renting, showing, maintaining, and managing its units.

Units at East Side, West Side, North Side, Runyan Court, Pine View, Clay Circle, and Ashland Heights are “dwellings” within the meaning of the FHA, 42 U.S.C. § 3602(b). Tenant eligibility for this housing is limited to low-income tenants.

The United States alleges, and Defendants deny, that Defendants have engaged in a pattern or practice of housing discrimination, or denied to a group of persons rights protected under the FHA, because of race or color.

The parties stipulate that this Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1345, and 42 U.S.C. § 3614(a). The parties have voluntarily

agreed, as indicated by the signatures below, to resolve the United States' claims against Defendants without the necessity of further litigation.

Therefore, it is **ORDERED** that:

II. GENERAL INJUNCTION

1. Except as specified, the terms of the Consent Decree apply to the low-income communities in Ashland, Alabama, known as East Side, Clay Circle, Runyan Court, North Side, West Side, Pine View, Ashland Heights I, and Ashland Heights II (the "Subject Properties").

2. Defendants deny having committed any of the following acts; nevertheless, they, their agents, employees, successors, and all other persons in active concert or participation with any of them with respect to the Subject Properties are hereby enjoined, with respect to the sale or rental of dwellings, from:

- a. Refusing to rent a dwelling, refusing or failing to provide or offer information about a dwelling, refusing to negotiate for the rental of a dwelling, or otherwise making unavailable or denying a dwelling to any person because of (i) the race or color of that person or any person in the household, or (ii) the race or color of persons residing in the housing community or neighborhood of the unit;

- b. Discriminating against any person in the terms, conditions, or privileges of the sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race or color;
- c. Discouraging any person from inspecting or renting a unit because of race or color or because of the race or color of persons in a housing community or neighborhood;
- d. Offering any person a unit, or allowing a person to decline an offer to be placed in a unit in a particular housing community or neighborhood, because of the person's preference based on race or color known to Defendants (or their agents, employees, successors, or others in active concert or participation with any of them); and
- e. Failing to conduct outreach or marketing, as required by applicable U.S. Department of Housing and Urban Development ("HUD") and U.S. Department of Agriculture ("USDA") requirements governing federally funded public and assisted housing to prospective applicants and tenants of Ashland Heights.

**III. NONDISCRIMINATORY PROCEDURES
FOR APPLICATIONS, OFFERS OF UNITS, AND TRANSFERS**

3. The parties acknowledge that the Housing Authority has adopted a written Admissions and Continued Occupancy Policy (“ACOP”), which sets forth procedures to be followed with respect to the placement of applicants into the Housing Authority’s public housing properties. The parties acknowledge that the Ashland Heights Owners have adopted a Tenant Selection Plan (“TSP”), which sets forth procedures to be followed with respect to the placement of applicants into Ashland Heights I and Ashland Heights II. Defendants further acknowledge their individual legal obligation to comply with applicable HUD and USDA regulations governing federally funded public and assisted housing. Defendants shall also comply with the specific procedures in this Consent Decree to ensure compliance with the FHA and to ensure that the Subject Properties are made available for rent on the same terms and conditions, irrespective of race or color. Within one year of the date of entry of this Consent Decree, Defendants shall take the necessary steps (including seeking any required approval from regulatory agencies) to revise the ACOP and/or TSP, if necessary, to reflect and incorporate the procedures in this Section of the Consent Decree.

4. Defendants shall take the following actions, which are intended to ensure nondiscrimination in offering units to applicants, remediation of alleged past

and/or current segregated housing patterns, and a proper record that can be monitored for compliance:¹

- a. Unit Availability Lists. On a weekly basis, Defendants shall print out and post a list of available units in each program. For each available public housing unit, the Unit Availability List will identify: (i) the name of the housing community, street address, and number of bedrooms; (ii) any designations governing who is eligible to live in the unit (e.g., only elderly or disabled households); and (iii) the date of the list. For each available unit at Ashland Heights (including units that are vacant but not yet ready to be leased), the Unit Availability List will identify: (i) the name of the housing community, the unit number, and number of bedrooms and (ii) the date of the list. Defendants shall post the Unit Availability Lists in a prominent location visible to the public at their or their agent's rental office with the information contained in the Preference and Eligibility Information Sheet (see below). To the extent that any Defendant maintains a

¹ Each Defendant is required to take the actions pertaining to any of the particular Subject Properties only to the extent that it is an owner and/or agent of that property and that the provision applies to that particular property.

website or websites regarding any of the Subject Properties, the website(s) will state that the Unit Availability List is posted weekly on a bulletin board in its rental office (or that of its agent, as applicable). Defendants shall maintain an electronic or paper copy of each posted list.

- b. Preference and Eligibility Information Sheet. Defendants or their agent shall provide a copy of the Preference and Eligibility Information Sheet, which is attached as Appendix A, to every applicant and require each applicant to sign this document when submitting their application form. Defendants or their agent shall retain copies of each signed Preference and Eligibility Information Sheet in the applicant's file. The Preference and Eligibility Information Sheet lists the following information: the properties and units within the respective housing programs, noting to which elderly and/or disabled preferences apply; the eligibility requirements for the respective programs; and any applicable factors that would permit an applicant to be offered a

unit before other applicants.² With respect to the public housing properties, the Preference and Eligibility Information Sheet explains all preferences or priorities—*i.e.*, factors that would permit an applicant to be placed into a unit before other applicants seeking a unit with the same number of bedrooms who applied earlier in time, such as elderly or disabled status. With respect to Ashland Heights I and Ashland Heights II, the Preference and Eligibility Information Sheet explains that there are no such factors.

- c. Waiting Lists. Defendants shall place each applicant onto the waiting list(s) for all programs in Ashland managed by Defendants or their agent for which the applicant is qualified.³ Defendants shall maintain separate waiting lists for each bedroom-size unit managed by the Housing Authority consistent with the ACOP and/or TSP. For each applicant on a waiting list, the list shall identify the applicant's name; current address; one

² The printed version of the Preference and Eligibility Information Sheet shall be a one-page handout (not including Exhibit 1 to the Preference and Eligibility Information Sheet); if the text takes up two pages, it should be printed double-sided.

³ The three housing programs are (i) the Housing Authority's public housing units, (ii) Ashland Heights I, and (iii) Ashland Heights II.

or more current telephone numbers; number of household members; any applicable preference(s); the time and date his or her application was submitted; the time and date the applicant was deemed eligible; and the time and date he or she was placed on the waiting list.⁴ Defendants or their agent shall record on each paper application the name of the individual employee or agent who received the application. For any application that is imported by an employee or agent of a Defendant from an online application system into an electronic waiting list system, Defendants shall record the identity of the employee or agent who completes the importation. The rank of each applicant on the waiting list shall be determined in accordance with the ACOP or TSP, applicable HUD and USDA requirements, and the requirements in this Section of the Consent Decree. Defendants shall generate and retain an updated waiting list after each housing placement and shall maintain complete, accurate, and up-to-date records to support the information in the lists. The

⁴ The versions of the waiting lists that Defendants will provide as part of the record retention and reporting requirements in paragraphs 24-25 will also include each applicant's race.

Housing Authority shall maintain a website allowing all applicants to determine their position on each waiting list on which the Housing Authority has placed the applicants. If an applicant moves into a unit owned by one of the Defendants, that Defendant or its agent will remove the applicant from any other waiting lists for Subject Properties managed or owned by that Defendant or its agent (if any).

- d. Transfers. Defendants shall allow tenants to request transfers by completing a Transfer Request Form, which is attached as Appendix B. Defendants or their agent shall provide a copy of the Transfer Request Form to every tenant who expresses interest in or asks about transferring, whether verbally or in writing. Defendants or their agent shall maintain records reflecting all transfer requests containing the resident's name, race, current address, one or more telephone numbers, number of household members, size of unit for which the resident is eligible, date of the transfer request, reason for the transfer request, whether the

request was granted, and the employee who received the request.⁵

- e. Offers. In addition to the procedures in the ACOP or TSP (as applicable) for contacting applicants to offer them a unit, Defendants or their agent shall call the telephone number provided by the applicant to inform the applicant of the offer. Defendants or their agent shall electronically record all offers or attempted offers of housing; all contact attempts made, including the name of the contacting employee; responses or absence of response; refusals by the applicant; reason given by applicant for refusal; where applicable, the Housing Authority's determination of whether each refusal was for "good cause;" any change to an applicant's place on the waiting list as a result of refusing or not responding to an offer; and housing placements.

⁵ Pursuant to the TSP, transfers within Ashland Heights I or within Ashland Heights II for a change in household composition necessitating a different sized unit, a reasonable accommodation request, and/or protection under the Violence Against Women Act are given preference over other applicants on the corresponding waitlist. Transfers of units for other reasons are treated as any other applicant on the waitlist. Transfers between Ashland Heights I and Ashland Heights II are treated as new applications.

- f. Occupants Directory. Defendants shall maintain a current Occupants Directory that is updated at least monthly that lists the residents at each of the Subject Properties managed or owned by them. The Occupants Directory shall indicate for each unit the number of persons in the household; name of each person in the household; address; the most recent telephone number(s) provided by the resident; move-in date; number of bedrooms; and any preference the tenant received.⁶
- g. Applications. Defendants shall retain all application forms and copies of correspondence concerning applications in their files at least for the term of this Consent Decree.
- h. Information to Prospective Applicants. Defendants or their agent or employees, as applicable, shall inform all persons who inquire about renting any dwelling within the Subject Properties that they may fill out an application and will be put on the waiting list(s) for any or all of the Subject Properties for which they qualify; that they will be offered the first available unit of the size

⁶ The Occupants Directories provided to the United States pursuant to paragraph 25 shall also include each household member's age and race.

they need when they become the highest-ranking applicant on the waiting list, and the consequences of refusing an offer of housing without “good cause” (as applicable); and that they will be treated equally, irrespective of race or color. Defendants or their agent must verbally inform all such applicants or prospective applicants that they may apply for any of the Subject Properties, and that should they do so, they would be offered the first available unit at any property for which they qualify once they are at the top of the applicable waiting list.

- i. Good Cause Policy. In addition to the procedures in the ACOP governing “good cause” for refusal of an offer, the Housing Authority will make determinations of “good cause” regarding the public housing properties consistent with the bases outlined in the Good Cause Policy. The Good Cause Policy is attached as Appendix C.
- j. Pending Applicants. When an applicant applies to the Housing Authority’s public housing without providing all required documentation to the Housing Authority, the Housing Authority will enter the application into its database with a “pending” status

and associated application date of the date on which the applicant submitted the application, and the Housing Authority shall provide the applicant a letter stating that the applicant must bring in the required documentation within fifteen days. Once an applicant has provided all the required documentation and eligibility has been established, the Housing Authority will promptly change the applicant's status to "eligible." The Housing Authority will make offers only to eligible applicants, except that if there are no eligible applicants on a particular waiting list, the Housing Authority will offer the unit to pending applicants in the order in which they applied, subject to their becoming eligible. The Housing Authority will not otherwise initiate contact with pending applicants regarding their applications, unless it contacts all other pending applicants for the same purpose on or around the same date. As provided in the TSP, under no circumstances will Defendants make an offer to an applicant for a unit at Ashland Heights I or Ashland Heights II unless the applicant has submitted all required documents.

k. Outreach. Within six months of the date of entry of this Consent Decree, the Ashland Heights Owners and/or their agent must create and implement an outreach plan that is specifically targeted at members of all groups that they have identified as least likely to apply to Ashland Heights I and Ashland Heights II without special outreach efforts in their 2017 Affirmative Fair Housing Marketing Plan. This outreach plan may take the same form as Affirmative Fair Housing Marketing Plans submitted to HUD and/or USDA. This plan must include at least five organizations (which could include local businesses, non-profits, and/or religious organizations), advertising channels, and/or community events that will be used to inform community members in each of the groups described above of the housing opportunities at Ashland Heights I and Ashland Heights II. The Ashland Heights Owners or their agent must verify that these entities have a significant percentage of members, customers, and/or attendees that belong to the group(s) identified as least likely to apply, as described above. The Ashland Heights Owners must take reasonable steps to utilize outreach materials, targets,

and/or techniques that are likely to attract applicants who are least likely to apply, as described above, and their outreach plan must include steps explaining how they will evaluate the effectiveness of their outreach, including but not limited to requiring the Ashland Heights Owners or their agent to maintain a detailed log of the specific referral or information source of each prospective applicant that contacts them. The Ashland Heights Owners and/or their agent will repeat the process of creating and implementing an outreach plan at least once per year and at least twice during the term of the Consent Decree, repeating any outreach activities that were successful in attracting members of the groups least likely to apply and replacing unsuccessful outreach activities with new ones.

1. Ashland Heights Applicants. The United States will provide the Ashland Heights Owners with a list of the approximately 145 applicants the United States contends should have been, but were not, placed on the Ashland Heights I or Ashland Heights II waiting lists when they initially applied, and the Bates numbers of each such applicant's application file. Within 15 days of

receiving that list, the Ashland Heights Owners will provide the United States with its response, including identifying any applicants on the United States' list that the Ashland Heights Owners contend would not have been eligible to be placed on the relevant waiting list(s) when they initially applied, even assuming they had been given an opportunity to provide all required supporting documentation. The United States and the Ashland Heights Owners will work together cooperatively in good faith to promptly resolve any disagreements regarding which applicants qualify and agree upon a final list of applicants who should have been placed on the waiting list(s) for Ashland Heights I and/or Ashland Heights II when they initially applied ("final list"). Within 15 days of the resolution of the final list, the Ashland Heights Owners will send a Notice Letter, attached as Appendix D, to each applicant on the final list and notify the United States once they have done so. The Notice Letter states that those applicants can opt to be placed on the waiting list for Ashland Heights I and/or Ashland Heights II, as applicable, to the extent they are currently eligible, in a position determined by

the application date corresponding to the date of their initial application; describes the procedures that applicants must take to be added to the waiting list; and allows them 60 days to respond and complete those procedures.⁷ Within seven days of receiving affirmative responses from any such recipient, Ashland Heights Owners shall place the person on the waiting list for Ashland Heights I and/or Ashland Heights II (as applicable), with a corresponding application date of the date of their initial application.

5. Defendants shall implement the provisions in paragraph 4 within 15 days of the date of entry of this Consent Decree. If any Defendant or its agent opens a new or additional rental office for the management of any Subject Property, that

⁷ The Ashland Heights Owners will utilize the address or contact information provided in the application unless they know that information is no longer correct. The United States may provide additional address information of these persons. To the extent the United States' information differs from the information within the applicant file, the Ashland Heights Owners will use the contact information provided by the United States. The Ashland Heights Owners will send the Notice Letter to each applicant using at least two methods of contact, if known, such as mail and email address. If the Ashland Heights Owners receive notification that an applicant's Notice Letter was returned as undeliverable (whether via email or mail), they shall notify the United States within seven days and make reasonable attempts to re-send the Notice Letter to that applicant, including, if applicable, by using additional contact information provided by the United States. Nothing in this Consent Decree prevents the United States from making its own additional efforts to notify applicants subject to this subparagraph of the provisions of the Notice Letter; and the United States' choice to do so shall not obviate the Ashland Heights Owners of any of its own obligations under this subparagraph.

Defendant shall implement all posting requirements described in paragraph 4 within 15 days of the opening of the rental office.

6. The parties may agree to modify internal deadlines in this Consent Decree without Court approval only after working together in good faith to meet existing deadlines and only if any request for an extension is reasonable, necessary, and not objected to by any of the parties. The parties may agree to modify the language in Appendices A and B to the Consent Decree without Court approval if such modification is necessary, consistent with the terms of the Consent Decree, and not objected to by any of the parties. The parties shall not unreasonably object to such requests.⁸

7. Within 10 days of implementation of the provisions in paragraph 4, the Housing Authority shall post and prominently display, and shall also provide links on their website to, the ACOP, TSP, Consent Decree, and a notice and summary of the terms of the Consent Decree in the form of Appendix E (“Notice and Summary”) in the Housing Authority office and any other office where there is rental-related activity and/or personal contact with applicants for any of the Subject Properties.

⁸ Within 10 days of the parties’ agreement to modify Appendix A or B, Defendants will replace the previous version of that Appendix with the modified Appendix agreed upon by the parties for all copies of that Appendix that are required to be posted or distributed pursuant to this Consent Decree.

Within 10 days of implementation of the provisions in paragraph 4, Ashland Heights Owners or its agent shall post and prominently display the TSP, the Consent Decree, and the Notice and Summary in any other office where there is rental-related activity and/or personal contact with applicants for Ashland Heights I and Ashland Heights II. Within 30 days of implementation of the provisions in paragraph 4, the Housing Authority shall distribute to all current tenants at the Subject Properties it manages the Notice and Summary, and notify each prospective applicant at the time they inquire about completing an application with the Housing Authority that copies of the ACOP, TSP, Consent Decree, and Notice and Summary are available in the Defendants' and/or their agent's office(s) and on Defendants' or their agent's website(s) for the Subject Properties. Unless the Housing Authority has already completed the following, the Ashland Heights Owners, within 45 days of implementation of the provisions in paragraph 4, shall distribute to all current tenants of Ashland Heights I and Ashland Heights II the Notice and Summary, and notify each prospective applicant at the time they inquire about completing an application for Ashland Heights I or Ashland Heights II where copies of the TSP, Consent Decree, and Notice and Summary are available.

8. No less than 15 days after the Consent Decree is entered, Defendants shall: (a) provide a copy of this Consent Decree, including all Appendices, to all

their employees, agents, and anyone acting under their direction who has responsibility for showing, renting, or managing dwelling units at the Subject Properties; and (b) conduct a question and answer session for all such employees and agents regarding the requirements in the Consent Decree, including Appendices. Defendants shall secure a signed statement in the form of Appendix F from each agent or employee acknowledging that he or she has received a copy of this Consent Decree, has had the opportunity to have questions about it answered, and agrees to abide by the Consent Decree.

9. Defendants shall provide a copy of this Consent Decree, including Appendices, to each new agent or employee who has responsibility for showing, renting, or managing dwelling units at the Subject Properties within five days after the agent or employee is hired and shall provide that individual with the opportunity to have his or her questions about them answered. Defendants shall also secure a signed statement from each such new agent or employee in the form of Appendix F.

IV. TRAINING

10. Within 45 days after the date of entry of this Consent Decree, Defendants shall attend an educational program that provides instruction regarding their obligations under the federal FHA, with specific emphasis on discrimination on the basis of race or color. Defendants' employees or agents who participate in

showing, renting, or managing dwelling units at the Subject Properties shall also attend. The training shall be conducted by an independent, qualified third party, not associated with Defendants or their counsel, approved in advance by the United States, and shall last at least two hours. Any expenses associated with this training shall be borne by Defendants. All persons attending such a program shall have their attendance certified in writing by the person or organization conducting the educational program. Defendants may videotape the educational program for purposes of compliance training for employees hired after the date of the initial training, for employees described in paragraph 8. Each individual who receives the training shall complete the Training Certificate attached as Appendix G.

11. Each new employee or agent who participates in showing, renting, or managing dwelling units at the Subject Properties shall receive fair housing training that meets the requirements of paragraph 10 and is approved by the United States within 30 days of beginning his or her employment or agency. Each such employee or agent shall complete the Training Certificate attached as Appendix G.

V. COMPLIANCE TESTING

12. The United States may take steps to monitor Defendants' compliance with this Consent Decree including, but not limited to, conducting fair housing tests

at any location at which any Defendant, now or in the future, conducts rental activities.

VI. SETTLEMENT FUND FOR AGGRIEVED PERSONS

13. Defendants shall deposit in an interest-bearing escrow account the sum of Two Hundred Seventy-Five Thousand Dollars (\$275,000) for the purpose of compensating the 23 individuals identified by the United States in pretrial disclosures as aggrieved persons. This money shall be referred to as the “Settlement Fund.” Specifically, the Ashland Heights Owners shall deposit in an interest-bearing escrow account the sum of One Hundred Fifty Thousand Dollars (\$150,000) within 30 days after the date of entry of this Consent Decree. The Housing Authority shall pay One Hundred Twenty-Five Thousand Dollars (\$125,000), as follows: within 30 days after the date of entry of this Consent Decree, the Housing Authority shall deposit in an interest-bearing escrow account separate from that of the Ashland Heights Owners the sum of Twenty-Five Thousand Dollars (\$25,000), and at 60-day intervals thereafter, the Housing Authority shall deposit Twenty-Five Thousand Dollars (\$25,000) in that account until the full amount is paid. Within five days of the establishment of each Defendant’s respective escrow account, and within five days of each installment payment, the Defendant(s) establishing the escrow account

or making the deposit shall submit proof to the United States that this account has been established and/or the funds deposited.⁹

14. Any interest accruing to the Settlement Fund shall become a part thereof and be utilized as set forth herein.

15. Payments from the Settlement Fund will be apportioned evenly amongst the identified aggrieved persons. Within 30 days of being notified of the Ashland Heights Owners' first and only deposit pursuant to paragraph 13, the United States shall provide the Ashland Heights Owners written instructions regarding the checks to be made payable to aggrieved persons. Within 15 days of receiving the written instructions from the United States, the Ashland Heights Owners shall deliver to the United States, by overnight mail, checks payable to the aggrieved persons, pursuant to those written instructions from the United States. Within 30 days of the Housing Authority's final deposit pursuant to paragraph 13, the Housing Authority shall deliver to the United States, by overnight mail, checks payable to the aggrieved persons, pursuant to written instructions by the United States. In no event shall the total amount distributed to aggrieved persons exceed the principal deposited into the Settlement Fund, plus accrued interest.

⁹ All material required by this Consent Decree to be submitted to the United States shall be sent via email addressed to Kathryn.Legomsky@usdoj.gov, Nathan.Berla-Shulock@usdoj.gov, Aurora.Bryant@usdoj.gov, and Carla.Ward@usdoj.gov.

16. When counsel for the United States has received a check from the Ashland Heights Owners or the Housing Authority payable to an aggrieved person and a signed release in the form of Appendix H from the aggrieved person regarding the applicable Defendant(s), counsel for the United States shall deliver the check to the aggrieved person and the original, signed release to counsel for Defendants. No aggrieved person shall be paid until he or she has signed and delivered to counsel for the United States the release at Appendix H.

17. If any funds have not been successfully distributed within twelve months of the date of the last installment payment into the Settlement Fund, those funds shall be distributed, on a pro rata basis, to the other identified aggrieved persons, through the process described in paragraph 15.

18. The requirement to pay damages under this Section of the Consent Decree is a debt within the meaning of 11 U.S.C. § 523(a)(6). Accordingly, Defendants shall not seek to discharge any part of this debt in bankruptcy.

VII. CIVIL PENALTIES

19. Within 30 days after the entry of this Consent Decree, the United States shall provide Defendants written instructions regarding an electronic funds transfer for payment of a civil penalty under 42 U.S.C. 3614(d)(1)(C). Within 30 days after receipt of those written instructions, Defendants shall pay the sum of Ten Thousand

Dollars (\$10,000) to the United States as a civil penalty under 42 U.S.C. § 3614(d)(1)(C), in accordance with the written instructions provided by the United States.

20. The civil penalty payment obligation specified in paragraph 19 is a debt for a fine, penalty, or forfeiture payable to and for the benefit of the United States within the meaning of 11 U.S.C. § 523(a)(7), and is not compensation for actual pecuniary loss. Defendants shall not seek to discharge any part of this debt in bankruptcy.

21. Payment of the funds is made solely as a means to resolve this matter and is not an indication, nor should it be interpreted to be an indication, that Defendants admit to any liability.

VIII. ACQUISITION, SALE OR TRANSFER OF PROPERTY INTEREST IN RESIDENTIAL PROPERTIES

22. If during the term of this Consent Decree the Housing Authority acquires an ownership, management, or other financial interest in any other residential rental property, the Housing Authority shall notify counsel for the United States within 30 days of acquiring such an interest, and such property shall become subject to the injunctive provisions in this Consent Decree. If during the term of this Consent Decree any of the Ashland Heights Owners acquires an ownership or management interest in any other residential rental property in Ashland, Alabama,

Defendants shall notify counsel for the United States within 30 days of acquiring such an interest. The notice shall identify the nature of each Defendant's interest in the property; the address; the number of individual dwelling units; the names of any existing tenants; the race of each such tenant; and any other information required under this Consent Decree. Defendants shall also provide the United States a copy of the documents memorializing the transfer in interest.

23. If Defendant Ashland Heights Owners sell or transfer all or part of Ashland Heights to a bona fide, third-party purchaser in an arms-length transaction, such property will continue to be subject to the Consent Decree. The sale or transfer of Ashland Heights or any part of Ashland Heights will have no impact on Defendants Ashland Heights Owners' obligations under the terms of this Consent Decree.

IX. RECORD RETENTION AND REPORTING REQUIREMENTS

24. Defendants shall preserve all records related to this Consent Decree for the duration of this Consent Decree, and all records related to the rental of dwelling units at any of the Subject Properties for the duration of this Consent Decree and as required by applicable regulations. Whether in print or electronic form, the documents include, but are not limited to, all lists, logs, directories, and records created as a result of this Consent Decree; applications; tenant files; correspondence

or notes relating to rental applications or applicants; advertisements; written management agreements governing the Subject Properties; and web or social media postings. For the duration of this Consent Decree and upon reasonable notice to Defendants, the United States may inspect and copy any records related to this Consent Decree to determine compliance.

25. Within three months after the date of the entry of this Consent Decree, and every three months thereafter for the duration of this Consent Decree, Defendants shall deliver to the United States a report containing information about the compliance efforts during the preceding reporting period, including:

- a. Executed copies of Appendices F and G not previously provided;
- b. Documentation of the implementation of the provisions of Section III of the Consent Decree not previously provided;
- c. Photograph(s) of Defendants' rental and management offices and a link to the Housing Authority's website showing the posting required under paragraph 7;
- d. Copies of all records referenced in Section III of this Consent Decree generated in the current reporting period;
- e. Copies of any published advertisements, brochures distributed, or other paper or electronic information about any Subject

Properties made available to the public since the previous report;
and

- f. All other documents or information required to be provided to the United States under this Consent Decree not previously provided.

The final report shall be submitted to the United States not later than 15 days before the date of expiration of this Consent Decree.

26. Defendants shall notify counsel for the United States in writing within 15 days of receipt of any written or oral complaint concerning alleged discrimination in housing, made or known to management or any person involved in showing or renting properties, regardless of the outcome or response, related to any Subject Property. The notification shall include the full details of the complaint, including the complainant's name, address, and telephone number, and a copy of any written complaint. Defendants shall also promptly provide to the United States all information it may request concerning any such complaint and its actual or attempted resolution.

X. SCOPE, DURATION AND ENFORCEMENT

27. This Consent Decree shall be in effect with respect to each Defendant for a period of 21 months from the date on which that Defendant has paid its portion

of the Settlement Fund in full. The underlying action is administratively closed but the court will retain jurisdiction for the duration of this Consent Decree to enforce its terms, after which time the case shall be dismissed with prejudice. The United States may move the Court to extend the duration of the Consent Decree in the event of noncompliance, whether intentional or not, with any of its terms.

28. In the event any Defendant engages in any future violation of the FHA, such violation shall constitute a “subsequent violation” under 42 U.S.C. § 3614(d)(1)(C)(ii). This provision applies to any future violation, whether resolved voluntarily or through judicial proceedings.

29. The parties shall endeavor in good faith to resolve informally any differences regarding interpretation of and compliance with this Consent Decree before bringing such matters to the Court for resolution. However, in the event the United States contends that there has been a failure by any Defendant, whether willful or otherwise, to perform in a timely manner any act required by this Consent Decree or otherwise to act in conformance with any provision thereof, the United States may move this Court to impose any remedy authorized by law or equity, including, but not limited to, an order requiring performance of such act or deeming such act to have been performed. To the extent any party must seek enforcement of

this Agreement, the prevailing party may seek an award of any damages, costs, and reasonable attorneys' fees associated with that enforcement.

XI. LITIGATION HOLDS

30. The parties agree that, as of the date of entry of this Consent Decree, litigation is not reasonably foreseeable concerning the matters described herein. To the extent that any party previously implemented a litigation hold to preserve documents, electronically stored information, or things related to the matters described in this Consent Decree, the party is no longer required to maintain such a litigation hold. However, nothing in this paragraph relieves Defendants of the record-keeping responsibilities imposed by this Consent Decree.

XII. COSTS OF LITIGATION

31. Each party to this litigation shall bear its own costs and attorneys' fees, except as provided in paragraph 29.

DONE and **ORDERED** this December 13, 2022.



ANNEMARIE CARNEY AXON
UNITED STATES DISTRICT JUDGE

APPENDIX A2022 Dec-13 PM 04:48
U.S. DISTRICT COURT
N.D. OF ALABAMA**PREFERENCE AND ELIGIBILITY INFORMATION SHEET**

This document gives an overview of the preferences and eligibility requirements for Ashland Housing Authority's six communities, as well as Ashland Heights I and Ashland Heights II, which the Housing Authority also manages. It does not contain all procedures and requirements for these programs. For more information about Ashland Housing Authority, you may review the Admissions and Continued Occupancy Policy (ACOP), which is in the Housing Authority's office or available for download on the Housing Authority's website. For more information about Ashland Heights I and Ashland Heights II, you may request a copy of the Tenant Selection Plan.

Ashland Housing Authority

Ashland Housing Authority includes Clay Circle, East Side, North Side, Pine View, Runyan Court, and West Side, and has 198 units, ranging in size from studio (0-bedroom) to four-bedroom units.

1. Eligibility Requirements

- a. Each applicant must be a family, as defined in the ACOP. A single person can be a family.
- b. Each applicant must meet certain requirements on citizenship or immigration status.
- c. An applicant's annual income cannot be more than the limits posted in the Housing Authority's office.
- d. Applicants must provide documentation of Social Security numbers for all family members or certify that they do not have Social Security numbers.
- e. Applicants must meet the Applicant Selection Criteria described in the ACOP.

2. Types of Preferences/Priorities

The waiting list for each unit size is ordered by date and time of application. Applicants can check their waiting list position for all housing programs managed by the Housing Authority at the following website: <https://apps.ashlandhdc.com/ApplPosition.aspx>. However, certain preferences and priorities may affect which applicant will be offered a unit when it becomes available, depending on the type of unit. A preference or priority does not guarantee admission.

- a. *Units Designated for Elderly/Disabled Families*: For these units, elderly and disabled families (at least one household member age 62 or over, or with a disability) are given equal priority. If no elderly or disabled families are on the waiting list, near elderly families (head of household, spouse, or sole member is at least 50 but less than 62 years of age) will be given priority.
- b. *Mixed Population Units*: For these units, elderly, disabled, and displaced single applicants have priority over other single applicants.
- c. *Accessible Units*: Current tenants who have disabilities and can benefit from the unit's accessibility features are given a preference to transfer into these units. If no current tenants need the unit's features, preference will be given to applicants who have a disability and can benefit from the unit's features.
- d. For all units, a preference is given to individuals who qualify for the Catastrophic Involuntary Displacement, as defined in the ACOP.

3. Verification of Preferences/Priorities:

- a. When an application is submitted, the Housing Authority will place the application on the waiting list for the applicable bedroom size sought, noting any applicable preferences/priorities that may apply, based on the information submitted by the applicant.
- b. If the waiting list is short, the Housing Authority will verify the preferences/priorities at the time of application. If the waiting time is anticipated to be more than four months, the Housing Authority will wait to verify the preference/priority until the applicant is higher on the waiting list.

- c. If the HA determines that an applicant does not meet the criteria for a preference/priority it previously noted may apply, the HA will promptly provide the applicant with a written explanation of the reasons for its determination, and the applicant has the right to meet with AHA to review the determination.

Ashland Heights I

Ashland Heights I has 40 one-bedroom and two-bedroom units. Ashland Heights I is not owned by the Housing Authority.

1. Eligibility Requirements

- a. Applicants for Ashland Heights I must be low income, as defined by HUD (no more than 50% of the area’s median family income).
- b. Applicants must also meet other qualifying criteria, as stated in the Tenant Selection Plan.
- c. Each one-bedroom unit can house no more than two individuals. Each two-bedroom unit can house no more than four individuals.

2. Preferences

- a. Three units at Ashland Heights I have accessibility features. Priority for those units will be given first to disabled tenants who need an accessible unit but are living in non-accessible units, and second to disabled applicants who need an accessible unit.
- b. The other units do not use any preferences or priorities for elderly, disabled, or other applicants.
- c. Other placement requirements are outlined in the Tenant Selection Plan.

Ashland Heights II

Ashland Heights II has 16 one-bedroom units and is not owned by the Housing Authority.

1. Eligibility Requirements

- a. Applicants for Ashland Heights II must be low income, as defined by USDA and the 515 loan agreement.
- b. Units at Ashland Heights II are reserved solely for the elderly (62 or over) and/or disabled (as defined by the Americans with Disabilities Act). Households without an elderly or disabled member cannot live at Ashland Heights II.
- c. Each unit may have no more than 2 household members.
- d. Applicants must also meet other qualifying criteria, as stated in the Tenant Selection Plan.

2. Preferences

- a. Ashland Heights II does not have any admissions preferences.

Unit List

A list of all units referenced in this Sheet is attached as Exhibit 1. For each unit, Exhibit 1 lists:

- a. Whether the unit is designated or reserved for elderly and/or disabled families
- b. Whether the unit has accessibility features for disabled families
- c. The size of the unit

<p>_____ Applicant Signature Date: _____</p>	<p>_____ Owner Representative Date: _____</p>
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APPENDIX B

TRANSFER REQUEST FORM

Name: _____ Phone number: _____

Current address: _____ Current bedroom size: 0 1 2 3 4

Current Total Members of Household: _____

Where do you want to move? Select one or more options:

- Ashland Heights I
- Ashland Heights II
- Ashland Housing Authority (East Side, West Side, North Side, Clay Circle, Pine View, Runyan Court)

Note: to move outside your current program (for example, from Ashland Housing Authority to Ashland Heights I or II), you must complete a new application form. The Housing Authority representative who receives this Transfer Request Form will provide you with that form and instructions to apply.

What is the reason for your transfer request? Select one or more options:

- Reasonable Accommodation (transfer related to a disability). *If you are applying for a Reasonable Accommodation transfer, you may need to complete an additional reasonable accommodation request form to be provided by the Housing Authority.*
- Change in family composition (adding or removing a household member)
- Violence Against Women Act (VAWA) (protection for victims of sexual assault, domestic violence, dating violence, or stalking)
- Other: _____

Explain specifically what type of unit you are requesting and the reason for your request (such as: a larger or smaller apartment, a different location, accessibility or other disability-related features, or other):

Signed: _____ Date: _____

* * *

To be completed by Ashland Housing Authority

Name of Housing Authority representative receiving this form: _____

Date received: _____

Type of transfer: Convenience transfer Other: _____

Comment (optional): _____

Ashland Housing Authority, Ashland Heights and Ashland Heights II are equal opportunity providers and employers. To file a complaint of housing discrimination, write to: Atlanta Regional Office of FHEO, U.S. Department of Housing and Urban Development, Five Points Plaza, 40 Marietta Street, Atlanta, GA 30303 (678) 732-2493, (800) 440-8091, TTY (404) 730-2654, <https://www.hud.gov/fairhousing/fileacomplaint>.



APPENDIX C

GOOD CAUSE POLICY

In addition to the examples provided in AHA's ACOP, AHA considers each of the following as "Good Cause" for Refusal of an offer without loss of the applicant's current position on waiting list:

- Temporary lack of funds for utility deposits, housing deposit, and prorated rent, for up to 90 days. Such lack of funds must be verified by proof of income/deductions documentation.
- Applicant or household member medical conditions that prevent relocation. Such medical conditions must be verified by a licensed healthcare professional.
- Applicant or household member is not receiving disability benefits but has mobility issues that limit safe access to the unit offered.
- Death of a household member, verified by death certificate or published obituary, that temporarily prevents applicant from moving.
- Applicant is bound by a lease agreement at another rental property for up to 90 days, verified by a valid lease signed by applicant.

AHA will not consider refusals due to location preferences to be "good cause" except as provided here or stated in the ACOP.

Procedures for Determining Good Cause

Whenever an applicant refuses an offer, AHA will ask the applicant the reason for the refusal. Pursuant to the ACOP and the Consent Decree, AHA will electronically record the reason(s) given, verify any reasons that potentially constitute good cause, and gather and maintain supporting documentation for such reasons.

AHA's Executive Director will personally make or approve every decision regarding whether an applicant had good cause to refuse an offer. Once the Executive Director has made a final determination, AHA will electronically record that determination. Additionally, AHA will attempt to contact the applicant to convey that determination and its effects on the applicant's waiting list position. AHA will document all such communications or attempted communications in its computer system.

If AHA verifies that an applicant has good cause to refuse an offer based on temporary lack of funds or an existing lease agreement, AHA will inform the applicant that, for a period of 90 days from the original offer, he or she will not receive any further offers. AHA will also inform the applicant that he or she may contact AHA if he or she becomes ready in less than 90 days. AHA will maintain an up-to-date record in the applicant's electronic file of the 90-day date or the applicant's sooner available date if applicable. Once 90 days have passed or the applicant notifies AHA that he or she is ready to receive an offer (whichever comes first), the applicant will receive an offer for any vacancy for which he or she is at the top of the waiting list. For each application, any subsequent refusal(s) based on the same reason (temporary lack of funds or another lease agreement) will not be considered good cause.

APPENDIX D**NOTICE LETTER**

Dear [Name],

On [date], you completed an application form for Ashland Heights [I and/or II]. We have learned that you were not entered into the waiting list for [that/those] housing program[s]. Under a Consent Decree entered by the United States District Court for the Northern District of Alabama resolving a lawsuit brought by the United States alleging violations of the federal Fair Housing Act by the Ashland Housing Authority and the owners of Ashland Heights, you have the right to be placed on the waiting lists for Ashland Heights I and/or II with an effective date the same as the date of your initial application ([insert date here]). If you choose to do so, you will remain on the waiting list(s) and receive an offer of housing for that program or those programs, subject to your current eligibility status and unit availability. Please note that Ashland Heights I has only one- and two-bedroom units, and Ashland Heights II has only one-bedroom units, which are reserved for persons who are elderly or disabled.

If you wish to be placed on the waiting list for Ashland Heights I and/or II, please notify us at your earliest opportunity at [insert contact information] and we will explain the documents we need you to provide. You have 60 days from the date of this notice to complete these procedures.

If you have any questions, please contact us at [insert contact phone and email] or the United States at [insert contact info, to be provided by United States].

APPENDIX E**NOTICE AND SUMMARY OF CONSENT DECREE ENTERED IN
*UNITED STATES V. HOUSING AUTHORITY OF ASHLAND, AL***

On [date], the United States District Court for the Northern District of Alabama approved a Consent Decree resolving a lawsuit brought by the United States against the Housing Authority of Ashland, AL (“AHA”), Southern Development Company of Ashland, Ltd., Southern Development Company of Ashland #2, Ltd., and Southern Development Company, LLC (“Ashland Heights Owners”) (collectively “Defendants”).

The United States filed this lawsuit in December 2020. The lawsuit alleged that Defendants engaged in a pattern or practice of housing discrimination in violation of the federal Fair Housing Act, by steering residents based on race at six of the eight low-income housing communities operated by AHA in Ashland, Alabama, which are known as: Pine View, West Side, North Side, Runyan Court, Ashland Heights I, Ashland Heights II, Clay Circle, and East Side. The Defendants deny these allegations, and all the parties have voluntarily agreed to resolve the litigation through this Consent Decree.

The Consent Decree includes the following requirements:

- Defendants must make the units at AHA’s housing communities available to all qualifying tenants, without regard to race or color. Defendants cannot offer units in particular housing communities or neighborhoods to applicants based on their race or color, or the race or color of their household members.
- Defendants must follow certain procedures to ensure nondiscrimination, transparency, and consistency in processing applications, offering units to applicants, and managing transfers.
- Defendants must make efforts to address the alleged past and/or current segregated housing patterns, including by conducting required outreach to groups who are least likely to apply to Ashland Heights I and II without special outreach efforts.
- Defendants must submit regular compliance reports to the United States, make all records related to this Consent Decree available to the United States upon request, and notify the United States of any housing discrimination complaint against them or their employees.
- Defendants must establish a Settlement Fund to compensate the individuals who previously participated as “aggrieved persons” during the lawsuit. Defendants must also pay a civil penalty to the United States.

A copy of the Consent Decree, this notice and summary of the Consent Decree, and AHA’s written procedures governing admissions and occupancy are posted publicly at [insert address(es) and website links]. The Consent Decree is also posted on the United States Department of Justice’s website at [insert link].

For questions or comments, you may contact AHA at (256) 354-2661 or the above address, or the United States Department of Justice at fairhousing@usdoj.gov.

APPENDIX F**ACKNOWLEDGMENT OF RECEIPT OF
CONSENT DECREE**

I acknowledge that on _____, 202__, I was provided a copy of the Consent Decree, including Appendices, entered by the Court in *United States v. Housing Authority of Ashland, AL, et al.*, Civil Action No. 1:20-cv-01905-ACA (N.D. Ala.), including remedial provisions adopted governing the management and operation of Defendants' public housing properties and Ashland Heights. I have read and understand these documents; have had an opportunity to ask questions about these documents; and have had any questions about these documents answered. I understand my legal responsibilities and shall comply with those responsibilities.

Signature/Printed Name

Job Title/Position

Date

APPENDIX G

**TRAINING CERTIFICATE:
EMPLOYEE/AGENT TRAINING ACKNOWLEDGMENT**

I hereby acknowledge that on _____, 202__, I completed training conducted by _____ on the requirements of the federal Fair Housing Act, under the Consent Decree entered by the United States District Court for the Northern District of Alabama in *United States v. Housing Authority of Ashland, AL, et al.*, Civil Action No. 1:20-cv-01905-ACA. I have also received and read a copy of that Consent Decree, including Appendices.

I understand my obligation to not discriminate against any person in any aspect of the rental of a residential dwelling, because of race, color, religion, national origin, disability, familial status (having children under age 18), or sex.

I also understand my obligation not to retaliate against any individual for exercising a right protected by the Fair Housing Act.

Signature/Printed Name

Job Title/Position

Date

APPENDIX H**FULL AND FINAL RELEASE OF CLAIMS**

In consideration for the parties' agreement to the terms of the Consent Decree entered in the case of *United States v. Housing Authority of Ashland, AL, et al.*, Civil Action No. 1:20-cv-01905-ACA, as approved by the United States District Court for the Northern District of Alabama, and in consideration for the payment of \$_____, I do hereby fully release and forever [the Housing Authority of Ashland, AL,] [Southern Development Company of Ashland, Ltd., Southern Development Company of Ashland #2, Ltd., and Southern Development Company, LLC,] from any and all fair housing claims set forth or related to the facts at issue in the litigation referenced above, or in any way related to that litigation, and any other claims arising from alleged housing discrimination that I may have had for any actions related to those claims through the date of the entry of the Consent Decree against [that Defendant/those Defendants].

I declare under penalty of perjury that the foregoing is true and correct.

Executed this _____ day of _____, 202__

Signature

Full name