

## United States v. Edward Rose & Sons, et al. (E.D. Mich.)

On September 30, 2005, the Court entered the [Consent Order \(pdf\)](#) resolving *United States v. Edward Rose and Sons, et al.* (E.D. Mich.) which, will settle all claims the United States has against Edward Rose and Associates, and related companies, the architectural firms of Dorchen/Martin Associates, Inc., Eckert/Wordell Architects P.C., Alexander V. Bogaerts & Associates P.C., SSOE, Inc., and architects Gerald Peterson and James R. Saule. Also on September 30, in the Northern District of Indiana, the United States will file a Joint Motion for Entry of Stipulated Order transferring all claims in that court, except those against architect Gary Weaver, to the Eastern District of Michigan, and will file a [Consent Order](#) settling all claims in this litigation against Gary Weaver. Under the Consent Order the former Defendants will retrofit 49 apartment complexes in Michigan, Indiana, Illinois, Ohio, Wisconsin, Virginia, and Nebraska to enhance their accessibility to individuals with physical disabilities. The agreement will affect over 5,400 ground floor apartments. The consent decree also requires the above defendants to pay \$1,060,000 to a fund for those who may have been harmed by the lack of accessibility features at the complexes. The consent order will remain in effect for five years.

The initial complaints were filed on January 18, 2001 (N.D. Ind.), and September 3, 2002 (E.D. Mich.), and later amended, [August 31, 2002 \(N.D. Ind.\)](#) and [June 29, 2004 \(E.D. Mich.\)](#), respectively. The complaints alleged Edward Rose & Sons, several affiliate companies, as well as individual architects and architectural firms, have engaged in a pattern or practice of discrimination against persons with disabilities by failing to include accessible features required the Fair Housing Act and the Americans with Disabilities Act in a number of apartment complexes it developed in Indiana, Michigan, Ohio, Wisconsin, Illinois and Virginia. The United States alleged that approximately 4050 ground floor units in 42 apartment complexes developed and managed by Edward Rose & Sons did have accessible entrances, had kitchens and bathrooms that are not accessible to persons with disabilities, have doors that are too narrow to allow passage by persons using wheelchairs, lack reinforcement in bathrooms for the later installation of grab bars, and have thermostats and environmental controls that are not in accessible locations. The complaints also alleged that the public and common use areas, such as parking, the rental office and club house, and the recreational facilities, were not accessible to persons

with disabilities as required by the Fair Housing Act and, in the case of public use facilities such as the rental office, the Americans with Disabilities Act.

On February 21, 2003, the Court issued a [order](#) granting the United States' for a preliminary injunction to enjoin the defendants from occupying or further constructing 19 apartment buildings at Westlake Apartments in Belleville, Michigan and Lake Pointe Apartments in Batavia, Ohio, until they could be redesigned or retrofitted to be brought into compliance with the Fair Housing Act (United States v. Edward Rose & Sons (E.D. Mich.)) The Court found that the complexes violated the accessibility provisions of the Fair Housing Act because the primary entrances directly across from the parking lot could be accessed only by going down at least a half flight of steps and were, therefore, not accessible to people with disabilities. Instead, persons who used wheelchairs would, at best, be required to take a circuitous and much longer route around the back of the building to enter their unit through their back door patio. The Court held that this design violated the Fair Housing Act. The Court also granted the United States' Motion for Leave to File a First Amended Complaint and denied the Defendants' Motion to Transfer the action to the Northern District of Indiana, where an action against some of the same defendants was pending. On February 24, 2003, the Court in the Northern District of Indiana, sua sponte, issued an order transferring its case to the Court in the Eastern District of Michigan.

On August 25, 2004, the [Sixth Circuit Court of Appeals](#) affirmed [the decision](#) of the district court granting the United States' motion for a preliminary injunction. The Circuit affirmed that the Fair Housing Act requires the common landing area between two covered dwellings to be accessible to persons with disabilities. The defendants' split-level design only provides access by way of a half-flight of stairs.