

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION**

NATIONAL FAIR HOUSING ALLIANCE, INC., )  
and PARALYZED VETERANS OF AMERICA, )  
INC. )

PLAINTIFFS, )

v. )

HHHUNT CORPORATION; ABBERLY AT )  
WEST ASHLEY LIMITED PARTNERSHIP; )  
ASHTON POINTE PROPERTY LIMITED )  
PARTNERSHIP; AUSTON CHASE I LIMITED )  
PARTNERSHIP; AUSTON CHASE II LIMITED )  
PARTNERSHIP; ABBERLY PLACE - GARNER- )  
PHASE I LIMITED PARTNERSHIP; ASHTON )  
VILLAGE LIMITED PARTNERSHIP; AUSTON )  
WOODS-CHARLOTTE-PHASE I APARTMENTS )  
LIMITED PARTNERSHIP; AUSTON WOODS- )  
CHARLOTTE-PHASE II APARTMENTS )  
LIMITED PARTNERSHIP; AUSTON GROVE – )  
RALEIGH APARTMENTS LIMITED )  
PARTNERSHIP; ABBERLY FARMS- )  
LEXINGTON PARK – PHASE I; ABBERLY )  
CREST-LEXINGTON PARK – PHASE II; )  
ABBERLY CREST-LEXINGTON PARK – )  
PHASE III; ABBERLY GREEN – )  
MOORESVILLE PHASE I LIMITED )  
PARTNERSHIP; ABBERLY GREEN – )  
MOORESVILLE PHASE II LIMITED )  
PARTNERSHIP; TWIN HICKORY )  
APARTMENTS LIMITED PARTNERSHIP; )  
HHHUNT PROPERTY MANAGEMENT, INC.; )  
J. DAVIS ARCHITECTS PLLC )

DEFENDANTS. )

Civil Action No. 7:11CV00131

**STIPULATED JUDGMENT**

This Stipulated Judgment is entered into this 24th day of October, 2012 by and between  
Plaintiffs, National Fair Housing Alliance, Inc. and The Paralyzed Veterans of America, Inc.

and Defendants, HHHunt Corporation, Auston Chase I Limited Partnership, Auston Chase II Limited Partnership, Abberly at West Ashley Limited Partnership, Ashton Pointe Property Limited Partnership, Abberly Place – Garner – Phase I Limited Partnership, Ashton Village Limited Partnership, Auston Grove-Raleigh Apartments Limited Partnership, Auston Woods-Charlotte-Phase I Apartments Limited Partnership, Auston Woods-Charlotte-Phase II Apartments Limited Partnership, Abberly Green – Mooresville – Phase I, Abberly Green – Mooresville – Phase II, Abberly Farms – Lexington Park – Phase I, Abberly Crest – Lexington Park – Phase II, Abberly Crest – Lexington Park – Phase III, Twin Hickory Apartments Limited Partnership and HHHunt Property Management, Inc.

#### **I. PURPOSES OF THE STIPULATED JUDGMENT**

WHEREAS the Defendants are the developers, owners, and/or managers of Auston Chase at 59 Summerlake Circle, Ridgeland, South Carolina 29936; Abberly at West Ashley at 3100 Ashley Town Center Drive, Charleston, South Carolina 29414; Ashton Pointe at 100 Ashton Pointe Boulevard, Beaufort, South Carolina 29906; Abberly Crest at 46850 Abberly Crest Lane, Lexington Park, Maryland 20653; Abberly Green—Mooresville at 117 Abberly Green Boulevard, Mooresville, North Carolina 28117; Abberly Place at 500 Abberly Crest Boulevard, Garner, North Carolina 27529; Auston Grove at 1160 Auston Grove Drive, Raleigh, North Carolina 27610; Auston Woods at 5301 Roundstone Way, Charlotte, North Carolina 28216; and The Gardens at Twin Hickory at 4700 The Gardens Drive, Glen Allen, Virginia 23059 (“Subject Properties”);

WHEREAS, on March 17, 2011, Plaintiffs filed a Complaint against Defendants in the United States District Court for the Western District of Virginia, case number 7:11-cv-0000131, alleging that, as more fully set forth in the Plaintiffs’ Complaint, Defendants designed and

constructed the Subject Properties without full adherence to the required elements of accessible and adaptable design in violation of the Fair Housing Amendments Act (“FHAA”), 42 U.S.C. §§ 3604(f)(1), (f)(2) and (f)(3)(C);

WHEREAS, at all times Defendants have denied and continue to deny the allegations in the Complaint;

WHEREAS, William Hecker, AIA of Hecker Design at 3568 Hampshire Drive, Birmingham, Alabama 35223 (hereinafter “Inspector”) has been retained by the Parties as neutral, third party inspector;

WHEREAS, by prior agreement of the Parties, the Inspector has visited and surveyed Auston Chase, Ashton Pointe and Abberly at West Ashley and has provided a written report for each surveyed property (“Inspector’s Report”) containing the Inspector’s findings of items determined not to be in compliance with ANSI A117.1- 1986, HUD’s Fair Housing Accessibility Guidelines (Volume 56 Fed. Register pp. 9497-9515 including the Supplemental Q&A at Vol. 59, Fed. Register No 123, pp. 33362-68) as modified by agreement of the parties (hereinafter “Checklist”);

WHEREAS, PLAINTIFFS are national organizations dedicated to ending housing discrimination and promoting residential integration and whose interests are aligned with, include, and overlap with public interest in fair housing as defined, interpreted, and used in *Spann v. Colonial Village, Inc.*, 899 F.2d 24, 31 (D.C. Cir. 1990). As such, at all times during the lawsuit, PLAINTIFFS have been acting as private attorneys general to enforce the FHAA and to vindicate the public interest. *Trafficante v. Metro. Life Ins. Co.*, 409 U.S. 205 (1972); *Moseke v. Miler and Smith, Inc.*, 202 F.Supp.2d 492, 499 (E.D. Va. 2002); and

WHEREAS, Plaintiffs and Defendants desire to resolve Plaintiffs' Complaint, as amended, voluntarily and, to that end, they have agreed to the following terms by which Plaintiffs' Complaint, as amended, may be fully and finally resolved and have stipulated to the entry of this Stipulated Judgment.

## II. TERMS OF THE STIPULATED JUDGMENT

Based upon the foregoing recitals, which are incorporated herein by this reference, it is hereby ORDERED ADJUDGED AND DECREED as a Final Judgment that:

### A. Definitions

1. "LAWSUIT" means the action filed in the United States District Court for the Western District of Virginia, styled *National Fair Housing Alliance, Inc., et al. v. HHHunt Corporation, et al.*, Case No. 7:11CV0013.

2. "DEFENDANTS" shall include HHHunt Corporation, Abberly At West Ashley Limited Partnership, Ashton Pointe Property Limited Partnership, Auston Chase I Limited Partnership, Auston Chase II Limited Partnership, Abberly Place – Garner – Phase I Limited Partnership, Ashton Village Limited Partnership, Auston Woods – Charlotte – Phase I Apartments Limited Partnership, Auston Woods Charlotte – Phase II Apartments Limited Partnership, Auston Grove Raleigh Apartments Limited Partnership, Abberly Farms – Lexington Park – Phase I, Abberly Crest – Lexington Park – Phase II, Abberly Crest-Lexington Park – Phase III, Abberly Green – Mooresville Phase I Limited Partnership, Abberly Green – Mooresville Phase II Limited Partnership, Twin Hickory Apartments Limited Partnership, HHHunt Property Management, Inc., and each of their predecessors, successors and assigns, parent corporations, subsidiary corporations, affiliated corporations, and the officers, directors,

shareholders, partners, employees, managers, members, representatives, insurers, attorneys and agents, past and present, of each of the aforesaid entities (“Related Persons”).

3. “PLAINTIFFS” shall include National Fair Housing Alliance, Inc. and Paralyzed Veterans of America, Inc., for themselves and for each of their predecessors, successors, assigns, privies, parents, managers, direct or indirect owners, subsidiaries, directors, officers, employees, agents, representatives, and attorneys.

4. “Parties” shall mean DEFENDANTS and PLAINTIFFS, as those terms are defined herein.

5. “FHAA” means the Fair Housing Act, as amended, 42 U.S.C. § 3601 *et seq.*, and any of its implementing regulations.

6. “Guidelines” means the Fair Housing Accessibility Guidelines, 56 Fed. Reg. 9472 (1991).

7. “ADA” means the Americans with Disabilities Act, as amended, 42 U.S.C. 12101 *et seq.*, and any of its implementing regulations.

8. “Inspector” means William Hecker, AIA of Hecker Design at 3568 Hampshire Drive, Birmingham, Alabama 35223.

9. “Subject Properties” means the properties alleged by PLAINTIFFS to be out of compliance with the FHAA in their Amended Complaint and which have been surveyed by the Inspector.

10. “The Checklist” means the list provided to the Inspector with the agreed upon terms for inspecting the Subject Properties.

11. “Punch List” means the retrofit plan for each Subject Property agreed to by the Parties pursuant to the terms of this Stipulated Judgment.

B. Jurisdiction and Scope of the Stipulated Judgment

1. At each of the Subject Properties, all ground-floor units in all non-elevator buildings and all units in elevator buildings are “covered units” within the meaning of the FHAA. Each covered unit at the Subject Properties, and the public and common-use areas at the Subject Properties, are subject to the design and construction requirements of the FHAA, 42 U.S.C. § 3604(f)(3)(C), unless otherwise agreed by the PLAINTIFFS that such units are exempt from the FHAA because of the terrain or unusual characteristics of the site under the Site Impracticality exemption contained in the Guidelines.

2. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1332, 42 U.S.C. §§ 3613(a) and 12188.

3. The provisions of this Stipulated Judgment shall be binding upon PLAINTIFFS and DEFENDANTS and Related Persons.

4. The provisions of this Stipulated Judgment are effective immediately upon the entry of the Stipulated Judgment by the Court.

5. Entry of this Stipulated Judgment is in the public interest.

6. PLAINTIFFS are acting as private attorneys general in bringing this action and enforcing the FHAA against the DEFENDANTS.

7. In making the findings herein and implementing the injunctive and other relief herein, the Court has considered, *inter alia*, the following:

a. The FHAA authorizes the Court to “grant as relief, as the court deems appropriate, any permanent or temporary injunction, temporary restraining order, or other order (including an order enjoining the defendant from engaging in such

practice or ordering such affirmative action as may be appropriate).” 42 U.S.C. § 3613(c)(1).

b. In determining appropriate relief, the Court must be flexible and the Court recognizes that “[e]quitable remedies are a special blend of what is necessary, what is fair, and what is workable. Traditionally, equity has been characterized by a practical flexibility in shaping its remedies and by a facility for adjusting and reconciling public and private needs.” *Baltimore Neighborhoods, Inc. v. LOB Inc.*, 92 F.Supp.2d 456, 468 (D. Md. 2000). Moreover, “[t]he principal limitation on the court’s equitable powers is that the relief should be no broader and no more burdensome than necessary to provide complete relief to the plaintiff.” *Id.* at 468.

c. In an FHAA design and construction case such as this lawsuit, equitable remedies may include retrofitting of alleged noncompliant “covered multifamily dwellings” in conjunction with a monetary payment to the Plaintiffs which will be used to further accessible housing throughout the United States. Such a monetary payment reflects the sometimes inherent inability of a defendant to fully retrofit an existing property to ensure complete technical compliance with the design and construction requirements of the FHAA.

d. The measures set forth in this Stipulated Judgment are practical and fairly address both public and private needs for accessible housing. This Stipulated Judgment and the measures taken herein fully and completely satisfy the FHAA regarding any alleged noncompliant feature at the Subject Properties.

e. The relief contained in this Stipulated Judgment including, but not limited to, the agreed upon retrofits to the Subject Properties and the monetary payments

made by DEFENDANTS, make it clear that “(1) it can be said with assurance that ‘there is no reasonable expectation . . .’ that the alleged violation will recur . . . and (2) interim relief or events have completely and irrevocably eradicated the effects of the alleged violation.” *Jones v. Poindexter*, 903 F.2d 1006, 1009 (4th Cir. 1990) (quoting *County of Los Angeles v. Davis*, 440 U.S. 625, 631 (1979)). Consequently, the Court finds that any further legal or administrative action of any kind, except for the enforcement of this Stipulated Judgment, instituted by any individual or entity arising from, based upon, or connected with the alleged failure to design and/or construct the Subject Properties in compliance with the FHAA would be moot.

C. Corrective Action At the Subject Properties

The Parties have entered into a Performance Protocol, the terms of which are incorporated herein by reference and enforceable as part of this Stipulated Judgment.

1. *Alterations at Auston Chase, Ashton Pointe and Abberly at West Ashley:*

DEFENDANTS will perform the alterations at Auston Chase, Ashton Pointe and Abberly at West Ashley (collectively, the “Surveyed Properties”), as outlined in the Punch List for each such property that is incorporated into the Performance Protocol.

2. *Survey and Alterations at the Remaining Subject Properties*

a. The provisions of this section shall govern the development of Inspector’s Reports for Abberly Crest, Abberly Green— Mooresville, Abberly Place, Auston Grove, Auston Woods, and The Gardens at Twin Hickory (collectively, the “Remaining Subject Properties”) and the alterations to be performed at those properties.



b. On or before December 1, 2012, the Inspector shall provide a written report to counsel for each Party for all of the Remaining Subject Properties. The Inspector's Report shall contain the Inspector's findings concerning built conditions he has determined not to be in compliance with the terms contained in the Checklist.

c. The parties will then schedule an agreed upon date and time to conduct a Settlement Meeting at which the parties will develop a retrofit plan for the Remaining Subject Properties and develop a final Punch List for the Remaining Subject Properties. The Settlement Meeting shall follow the same format as the meeting which was held between the parties to develop the retrofit plan which resulted in the agreement to perform the alterations at the Surveyed Properties.

d. The parties agree that the retrofit plans for the Remaining Subject Properties shall, to the maximum extent possible, incorporate the parties' agreement with respect to alterations of built conditions that are to be applied at the Surveyed Properties to bring them into compliance.

e. If they are unable to agree with respect to the alteration of a built condition found by the Inspector to be out of compliance, the Parties agree to submit the disagreement to the Inspector. The Inspector shall recommend whether and/or how to retrofit/alter the specific architectural element in dispute. The Inspector's recommendation shall become final and part of the final Punch List for the Subject Property at which the architectural element is located unless either party objects to the recommendation within ten (10) days of receipt of the Inspector's recommendation.

f. The Parties shall have up to thirty days (30) following receipt of the written objections referenced in the preceding paragraph, to reach agreement resolving

any and all objections. Where the Parties are able to reach agreement, such resolution shall become part of the Punch List.

g. If the Parties are unable to reach agreement through the process described in the preceding paragraph, either may submit their objections and supporting arguments to the Magistrate Judge or to another person designated by the Court for a final determination. After considering the movant's objections and response of the opposing party, the Magistrate Judge or other party designated by the Court shall issue a determination as to the objection, and that determination shall be final and binding on both Parties and shall be made a part of the final Punch List for the relevant Subject Property.

h. The Parties agree that, upon conclusion of the process outlined in this Paragraph II.C.2., the final Punch List for each of the Remaining Properties shall be incorporated into the Performance Protocol and be enforceable as part of this Stipulated Judgment.

3. *Cost of Alterations*

DEFENDANTS agree to pay the costs of any alterations agreed to at the Surveyed Properties and in the final Punch Lists for the remaining Subject Properties and shall attempt, in good faith, to minimize any inconvenience to the residents of the apartments in performing those alterations.

4. *Timetable for Performing Alterations At the Subject Properties*

i. *Accessible Building Entrances on Accessible Routes, Accessible and Usable Public and Common Use Areas and Places of Public Accommodation:* DEFENDANTS agree to commence and finish the alterations to the accessible routes, accessible and usable public and

common use areas, and places of public accommodation as agreed upon by the parties under the following terms:

a. at Auston Chase, Ashton Pointe, Abberly at West Ashley, and Abberly Crest as soon as practical but no later than twelve (12) months from the end of the month in which this Stipulated Judgment is entered by the Court;

b. at Auston Grove, Abberly Place, and Auston Woods as soon as practical but no later than twenty-four (24) months from the end of the month in which this Stipulated Judgment is entered by the Court; and

c. at Abberly Green I & II and the Gardens at Twin Hickory as soon as practical but no later than thirty-six (36) months from the end of the month in which this Stipulated Judgment is entered by the Court.

ii. *Interior of Covered Dwellings*: Except in units where tenants request expedited alterations as provided in Paragraph II.C.5., DEFENDANTS agree to commence and finish the alterations to the interior of the covered units at the Surveyed Properties no later than the first time the unit becomes vacant following entry of this Stipulated Judgment and before the unit is re-occupied by a new tenant, and for each Remaining Subject Property, no later than the first time the unit becomes vacant following the date on which the parties reach agreement on a final Punch List for that Remaining Subject Property. Regardless of whether or not a vacancy arises for the alterations to be performed, however, the DEFENDANTS agree to perform all such alterations within three (3) years from the end of the month in which this Stipulated Judgment is entered. However, in that case, if a current tenant of a unit is informed of the proposed alterations and he or she objects in writing to DEFENDANTS performing the alterations, such unit shall be altered when such tenant vacates the unit and before the unit is re-occupied by a

new tenant. These deadlines are subject to the provisions of Paragraph II.C.7 regarding the sale or transfer of an ownership interest.

5. *Notice to Tenants of Availability of Alterations:*

DEFENDANTS will send the notice as set forth in Appendix 1 to each tenant of a covered dwelling unit at the Subject Properties informing the tenant of the availability of alterations under this Stipulated Judgment, and that the alterations will be made without cost to the tenant. Any tenant may, on account of his/her own disability or the disability of a family member, request alterations provided for under this Stipulated Judgment be made to his/her covered unit. A statement from a tenant that he/she or his/her family member has a disability is sufficient to establish that such person has a disability for purposes of this paragraph. Upon such a request, DEFENDANTS will complete the alterations relating to the interior of that tenant's covered unit within thirty (30) days after Defendant's receipt of the request, unless the retrofit plan for the Subject Property provides for a shorter time frame.<sup>1</sup>

6. *Inspection of Alterations Performed*

i. DEFENDANTS agree to inform the Inspector and PLAINTIFFS in writing of the completion of the agreed upon alterations at each Subject Property within thirty (30) days of the completion of such alterations. The Inspector shall then conduct an on-site inspection at each Subject Property within a reasonable time period after receipt of such notice. The inspection shall be of a sample to be determined by the Inspector of the completed alterations at the Retrofit Property to determine if the alterations have been performed according to the terms of this

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<sup>1</sup> If DEFENDANTS receive an inordinate amount of requests from tenants in response to notices as compared to the parties expectations, DEFENDANTS may request additional time from PLAINTIFFS to complete the retrofits and the PLAINTIFFS must consider an enlarged period to complete the alterations requested by the tenants.

Stipulated Judgment. DEFENDANTS agree to pay all of the Inspector's costs associated with the inspections and such payments shall be made without regard to the Inspector's findings.

ii. The Inspector shall note the results of each inspection of each Subject Property including deficiencies, if any, in the written report contained in Appendix 3 and shall send that report to counsel for each Party. If DEFENDANTS have fully made the alterations as agreed upon herein, the Inspector shall certify in the report that the Subject Property is in compliance. If the inspection indicates that any of the required alterations have not been made as specified herein, the Inspector shall note the deficiencies in the report. DEFENDANTS agree to correct any deficiencies noted in the report as directed by the Inspector within thirty (30) days<sup>2</sup> and provide documentary and photographic evidence of the correction of such alterations to the Inspector. After DEFENDANTS have made the alterations to the deficiencies noted by the Inspector, the Inspector shall certify in the report that the Subject Property is in compliance.

iii. Once the Inspector certifies that a Subject Property is in compliance, such certification shall be deemed final and binding on PLAINTIFFS and DEFENDANTS as to each Subject Property upon which a certification is issued and shall fully discharge DEFENDANTS from any further obligation under this Stipulated Judgment as to that Subject Property. This process shall continue until the Inspector certifies that all of the agreed upon alterations have been made.

7. *Sale or Transfer of an Ownership Interest In a Subject Property*

The sale or transfer, in whole or in part, of an ownership interest in any of the Subject Properties by DEFENDANTS after the entry of this Stipulated Judgment shall not affect DEFENDANTS' obligation to complete the alterations at a Subject Property agreed to under this

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<sup>2</sup> If the thirty (30) day time period is deemed impractical by the Inspector because of the extent of the deficiency. DEFENDANTS may request additional time from PLAINTIFFS to complete the retrofits and the PLAINTIFFS

Stipulated Judgment. Should DEFENDANTS decide to sell or transfer any ownership interest in a Subject Property prior to the completion of the alterations provided for under this Stipulated Judgment, DEFENDANTS will provide written notice to each buyer or transferee that DEFENDANTS are required to complete the alterations pursuant to this Stipulated Judgment. DEFENDANTS shall either complete the alterations prior to the sale or transfer of the Subject Property or obtain written consent of the new buyer(s)/transferee(s) to have these alterations performed within the time frame allotted herein at the Subject Property after the new owner takes possession of the Subject Property. Not later than fourteen (14) days after such sale or transfer, DEFENDANTS agree to notify PLAINTIFFS in writing of actions that DEFENDANTS has taken in accord with this provision.

C. Remedial Obligations

1. *General Provisions.*

Subject to the terms of this Stipulated Judgment, the DEFENDANTS agree to design and construct any new covered multifamily dwellings in compliance with 42 U.S.C. § 3604, subdivisions (f)(1)-(3), as amended.

2. *Notice to and Education of Current and Future Employees.*

i. For a period of thirty-six (36) months from the execution of this Stipulated Judgment the DEFENDANTS agree to ensure that any of their employees and agents who have supervisory authority over the design and/or construction of covered multifamily dwellings have a copy of, are familiar with, and personally review, the Fair Housing Accessibility Guidelines, 56 Fed. Reg. 9472 (1991) and the United States Department of Housing and Urban Development, *FHA Design Manual, A Manual to Assist Builders in Meeting the Accessibility Requirements of the FHA* (August 1996, Rev. April 1998).

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must consider the Inspector's recommendation for an enlarged period to correct the deficiencies.

ii. Within thirty (30) days of the execution of this Stipulated Judgment, DEFENDANTS agree to provide to all of their executives with supervisory responsibility for the design and/or construction of covered multifamily dwellings and on-site management employees with supervisory responsibility for the design and/or construction of covered multifamily dwellings a copy of this Stipulated Judgment. DEFENDANTS further agree to secure a signed statement from each such executive or employee acknowledging that he or she has received and read the Stipulated Judgment and has had an opportunity to have questions about the Stipulated Judgment answered. Within forty (40) days of the entry of this Stipulated Judgment, copies of the signed statements shall be provided to PLAINTIFFS.

iii. For a period of twenty-four months (24) from the entry of this Stipulated Judgment, the DEFENDANTS agree to, within thirty (30) days after the date any new employee or agent with supervisory responsibility for the design and/or construction of covered multifamily dwellings commences work, give such new employee or agent a copy of this Stipulated Judgment; and secure a signed statement from each acknowledging that he or she has received and read the Stipulated Judgment and has had an opportunity to have questions about the Stipulated Judgment answered. By December 30 of each year during the term of this Stipulated Judgment, DEFENDANTS agree to provide copies of these statements to PLAINTIFFS.

3. *Notice to Public:*

i. Within ten (10) days of the date of execution of this Stipulated Judgment and for a period of thirty-six (36) months thereafter, DEFENDANTS agree to post and prominently display in the sales or rental offices of all covered multifamily dwellings owned in whole or in part or managed by them a sign no smaller than 10 by 14 inches indicating that all dwellings are

available for rental on a nondiscriminatory basis. A poster that comports with 24 C.F.R. Part 110 will satisfy this requirement.

ii. For a period of thirty-six months (36) from the execution of this Stipulated Judgment, DEFENDANTS agree, in all advertising in newspapers, websites, or reprints of pamphlets, brochures and other promotional literature regarding any covered multifamily rental property owned in whole or in part or managed by them, to place, in a conspicuous location, the universal symbol of accessibility.

D. Settlement Payment

The DEFENDANTS agree to, no later than December 15, 2012 make a Settlement Payment to PLAINTIFFS as provided in the Performance Protocol as compensation to PLAINTIFFS (including attorney's fees). No portion of the Settlement Payment is intended for, or will be utilized for DEFENDANTS to make any Subject Property more accessible or adaptable to any person with disabilities.

E. General Release of All Claims:

1. In exchange for, and in consideration of, the payments, alterations, benefits, and other commitments described herein, PLAINTIFFS hereby fully release, acquit, and forever discharge DEFENDANTS from any and all claims, liabilities, causes of action, damages, costs, attorneys' fees, expenses, and compensation whatsoever, of whatever kind or nature, in law, equity or otherwise, whether known or unknown, vested or contingent, suspected or unsuspected, that PLAINTIFFS may now have, have ever had, or hereafter may have relating to the allegations in the Lawsuit, and hereby specifically waive and release all such claims, including, but not limited to, those arising under the FHAA, ADA, Section 504, and any and all state or local statutes, ordinances, or regulations governing the accessibility of residential units and common areas



including, without limitation, any state law claim pursuant to the laws of the States of Maryland, Virginia, North Carolina, and South Carolina, as well as all claims arising under federal, state, or local law involving any claim related to the allegations in the Lawsuit.

PLAINTIFFS intend by this release to eliminate completely and permanently all claims of every nature whatsoever that PLAINTIFFS have against DEFENDANTS for acts or omissions prior to the date of this Agreement and this release shall be broadly construed to that end.

2. In consideration of each and every one of DEFENDANTS' agreements and covenants set forth herein, each of which is an essential and indispensable part hereof, PLAINTIFFS agree that they will never sue, file a claim, charge, or action against (or cause to have a claim, charge, or action be filed against), or assert any right or liability against DEFENDANTS concerning any claim, issue, or matter relating to or arising out of the LAWSUIT. No provision of this Agreement shall be interpreted to waive, release, or extinguish any rights that – by express and unequivocal terms of law – may not under any circumstances be waived, released, or extinguished.

3. PLAINTIFFS agree that the entry of this Stipulated Judgment shall extinguish all claims and shall be a full, complete, and final disposition and settlement of all claims against DEFENDANTS relating to all matters and issue which were alleged, or could have been alleged, were raised, or could have been raised, in any other manner in this LAWSUIT, including, but not limited to, claims relating to the FHAA, ADA, and Section 504, and any similar federal, state, or local law. Accordingly, PLAINTIFFS stipulate and agree that res judicata and collateral estoppel apply to each of the claims in this LAWSUIT so that PLAINTIFFS are forever barred from re-litigating such claims, matters, and issues which were alleged, or could have been alleged, or could have been raised, in any other manner in this LAWSUIT including, but not

limited to, claims relating to the FHAA, ADA, and Section 504, and any similar federal, state, or local law.

F. Miscellaneous Provisions.

1. *Binding Effect.*

This Stipulated Judgment shall be binding upon and inure to the benefit of the parties hereto, their respective heirs, successors and assigns.

2. *Costs and Expenses.*

Except as specifically provided for herein, each of the Parties to this Stipulated Judgment shall bear its own attorneys fees and costs arising out of and/or relating to the Complaint.

3. *Deadlines.*

All deadlines and dates for performance by PLAINTIFFS and/or DEFENDANTS under this Stipulated Judgment may be extended or modified by written agreement between PLAINTIFFS and DEFENDANTS.

4. *Severability.*

Each provision and term of this Stipulated Judgment shall be interpreted in such a manner as to be valid and enforceable. In the event any provision or term of this Stipulated Judgment is determined to be, or is rendered, the invalid or unenforceable, all other provisions or terms of this Stipulated Judgment shall remain unaffected to the extent permitted by law.

5. *Notice to the Parties.*

All notices required or permitted hereunder shall be in writing and shall be served on the Parties at the addresses or e-mail addresses set forth below. If sent by overnight delivery, notice shall be deemed delivered one (1) business day after deposit with the nationally recognized overnight courier. Personal delivery shall be deemed delivered upon the date the same was

actually delivered. E-mail notices shall be deemed delivered the day the same was sent, provided that the sender has retained a copy and the same was properly sent.

i. Notices to the PLAINTIFFS shall be sent to: National Fair Housing Alliance – Attention: Shanna Smith, CEO and President, 1101 Vermont Ave., NW, Suite 710, Washington, DC 20005 with e-mail to [ssmith@nationalfairhousing.org](mailto:ssmith@nationalfairhousing.org). Any notice to the PLAINTIFFS must all also be sent to counsel for PLAINTIFFS, Michael Allen, Esq., Relman, Dane & Colfax 1225 19th St. NW, Suite 600, Washington DC 20036 with e-mail to [mallen@Relmanlaw.com](mailto:mallen@Relmanlaw.com).

ii. Any notice to DEFENDANTS shall also be sent to counsel for DEFENDANTS, Scott Parrish Moore, Esq., Baird Holm LLP, 1700 Farnam St., 1500 Woodmen Tower, Omaha, Nebraska 68102 with email to [spmooore@bairdholm.com](mailto:spmooore@bairdholm.com).

6. *Entire Agreement.*

This Stipulated Judgment constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior agreements, understandings, expectations and discussions of or between the parties, whether oral or written, and there are no

representations or other agreements between the Parties respecting the subject matter hereof.

7. *Force Majeure.*

If DEFENDANTS are delayed, interrupted, or prevented from performing any of their obligations under this Stipulated Judgment and such delay, interruption, or prevention is due to fire, act of God, or any cause outside the reasonable control of DEFENDANTS, then PLAINTIFFS agree to consider, in good faith, extending the time for performance of the affected obligation of DEFENDANTS.

**III. ENTRY OF JUDGMENT.**

SO ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
UNITED STATES DISTRICT COURT JUDGE

Stipulated to by the Parties as indicated by the signatures appearing below:

**Plaintiff National Fair Housing Alliance, Inc.**

By: Shanna Smith October 24, 2012  
Name: SHANNA L SMITH  
Its: President/CEO

**Plaintiff The Paralyzed Veterans of America, Inc.**

By: \_\_\_\_\_ October \_\_, 2012  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

Michael Allen October 25, 2012

Michael Allen (Virginia Bar No. 25141)  
Stephen M. Dane (*pro hac vice*)  
Thomas J. Keary (*pro hac vice*)  
RELMAN, DANE & COLFAX PLLC  
1225 19<sup>th</sup> Street, N.W., Suite 600  
Washington, D.C. 20036  
(202) 728-1888  
(202) 728-0804 (facsimile)  
mallen@relmanlaw.com

Attorneys for Plaintiffs

Stipulated to by the Parties as indicated by the signatures appearing below:

**Plaintiff National Fair Housing Alliance, Inc.**

By: \_\_\_\_\_ October \_\_, 2012  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**Plaintiff The Paralyzed Veterans of America, Inc.**

By: Homer S. Townsend Jr. October 25, 2012  
Name: Homer S. Townsend Jr.  
Its: Executive Director

 October 25, 2012

Michael Allen (Virginia Bar No. 25141)  
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Attorneys for Plaintiffs

**HHHunt Corporation**

By: [Signature] October 24, 2012  
Name: J.R. King  
Its: \_\_\_\_\_

**Auston Chase I Limited Partnership**

By: [Signature] October 24, 2012  
Name: J.R. King  
Its: \_\_\_\_\_

**Auston Chase II Limited Partnership**

By: [Signature] October 31, 2012  
Name: J.R. King  
Its: \_\_\_\_\_

**Abberly at West Ashley Limited Partnership**

By: [Signature] October 24, 2012  
Name: J.R. King  
Its: \_\_\_\_\_

**Ashton Pointe Property Limited Partnership**

By: [Signature] October 24, 2012  
Name: J.R. King  
Its: \_\_\_\_\_

**Abberly Place – Garner – Phase I Limited Partnership**

By: [Signature] October 24, 2012  
Name: J.R. King  
Its: \_\_\_\_\_

**Ashton Village Limited Partnership**

By: [Signature] October 24, 2012  
Name: J.R. King  
Its: \_\_\_\_\_

**Auston Grove-Raleigh Apartments Limited Partnership**

By: [Signature] October 24, 2012  
Name: J.R. King  
Its: \_\_\_\_\_

**Auston Woods-Charlotte-Phase I Apartments Limited Partnership**

By: [Signature] October 24, 2012  
Name: J.R. King  
Its: \_\_\_\_\_

**Auston Woods-Charlotte-Phase II Apartments Limited Partnership**

By: [Signature] October 24, 2012  
Name: J.R. King  
Its: \_\_\_\_\_

**Abberly Green - Mooresville - Phase I**


By: [Signature] October 24, 2012  
Name: J.R. King  
Its: \_\_\_\_\_

**Abberly Green - Mooresville - Phase II**

By: [Signature] October 24, 2012  
Name: J.R. King  
Its: \_\_\_\_\_



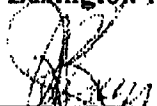
**Abberly Farms – Lexington Park – Phase I**

By:  October 24, 2012  
Name: JR K...A  
Its: VT


**Abberly Crest – Lexington Park – Phase II**

By:  October 24, 2012  
Name: JR K...A  
Its: VT


**Abberly Crest – Lexington Park – Phase III**

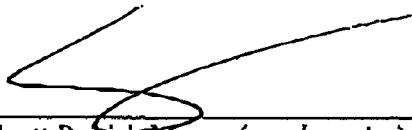
By:  October 24, 2012  
Name: JR K...A  
Its: VT

**Twin Hickory Apartments Limited Partnership**

By:  October 24, 2012  
Name: JR K...A  
Its: VT

**HHHunt Property Management, Inc.**

By:  October 24, 2012  
Name: JR K...A  
Its: VT



October 24, 2012

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Allison D. Balus, Virginia Bar 48825  
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Attorneys for Defendants

**APPENDIX 1**

**NOTIFICATION TO TENANTS**

\_\_\_\_\_ [Date]

[Name of Tenant]  
[Address of Tenant]

Re: Fair Housing Amendments Act Retrofits at \_\_\_\_\_ [Name of  
Apartment Complex]

Dear Madam or Sir:

[Name of Apartment Complex] will provide retrofits to your apartment home increase accessibility at no cost to you. We can provide some of these retrofits on the same day you request it. You need not have a disability to request any of the retrofits in this notice.

Here is a list of elements that we will modify at no cost to you:

1. . . .

If you would like us to alter any or all of these elements in your unit, please circle the element(s) you would like altered, sign below, and return this letter to \_\_\_\_\_ or you may call \_\_\_\_\_ at \_\_\_\_\_ to discuss this matter. After we receive this request, someone will contact you to discuss the details of completing the alterations.

Thank you for your attention to this matter.

Very truly yours,

\_\_\_\_\_

I request that \_\_\_\_\_ alter the elements in my unit that I have circled.

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Unit Number

\_\_\_\_\_  
Signature

**APPENDIX 2**

**EXECUTIVE/EMPLOYEE/AGENT ACKNOWLEDGMENT**

I \_\_\_\_\_, an of \_\_\_\_\_, hereby acknowledge that I have received a copy of the Stipulated Judgment in *National Fair Housing Alliance, et al. v. HHHunt Corporation, et al.*, Case No. 7:11CV0013 (W.D. Va.), and that I have read and understand the Stipulated Judgment.

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature

**APPENDIX 3**

**CERTIFICATION OF PROPERTY AS COMPLIANT WITH STIPULATED JUDGMENT**

William Hecker has reviewed \_\_\_\_\_ (the "Subject Property") for compliance with the requirements of the Stipulated Judgment.

I conducted a review to obtain a reasonable basis for my opinion. This included reviewing, on a test basis, architectural elements provided to me by the parties in *National Fair Housing Alliance, et al. v. HHHunt Corporation, et al.*, Case No. 7:11CV0013 (W.D. Va.). I did not review every architectural element throughout the Subject Property. The requirements for accessible design and construction in multifamily housing are subject to changing and evolving interpretations and court decision as to which design experts and code officials may disagree. Further, compliance with the FHAA may be accomplished by various and differing design solutions. In addition, HUD has recognized several "safe harbors" for FHAA compliance, and these safe harbors differ as to particular accessible design requirements.

\_\_\_\_\_ Based upon my review of the Subject Property, I conclude that the elements provided to me by the parties in *National Fair Housing Alliance, et al. v. HHHunt Corporation, et al.*, Case No. 7:11CV0013 (W.D. Va.), have been retrofitted to full compliance with the FHAA and/or ADA, as applicable.

\_\_\_\_\_ Based upon my review of the Subject Property, I conclude that the elements provided to me by the parties in *National Fair Housing Alliance, et al. v. HHHunt Corporation, et al.*, Case No. 7:11CV0013 (W.D. Va.), have been retrofitted to full compliance with the FHAA and/or ADA, as applicable, with the exception of the following:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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