

BILL NO.: 4522

ORDINANCE NO.: _____

Introduced by: Council Present

AN ORDINANCE OF THE CITY OF BERKELEY, MISSOURI, AUTHORIZING THE MAYOR TO EXECUTE THE ATTACHED CONCILIATION AGREEMENT WITH UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

Now, Therefore, Be it Ordained by the City Council of the City of Berkeley, Missouri, as follows:

Section 1 The Mayor is hereby authorized to enter into and execute the attached United States Department of Housing and Urban Development (HUD) Voluntary Compliance and Conciliation Agreement.

Section 2 The attached agreement is hereby incorporated herein and made a part of this ordinance, as if fully set out herein.

Section 3 This Ordinance shall be in full force and effect from and after its passage.

1st Reading this 20th day of February 2017

2nd Reading this 20th day of February 2017

3rd Reading, PASSED and APPROVED, this _____ **day of** _____ **2017**

Theodore Hoskins, Mayor

ATTEST:

Deanna L. Jones, City Clerk

Approved As To Form:
Donnell Smith, City Attorney

Final Roll Call:

| | | | | |
|------------------------------|---------|---------|------------|-------------|
| Mayor Hoskins | Aye ___ | Nay ___ | Absent ___ | Abstain ___ |
| Councilwoman Hoskins | Aye ___ | Nay ___ | Absent ___ | Abstain ___ |
| Councilwoman Kirkland | Aye ___ | Nay ___ | Absent ___ | Abstain ___ |
| Councilwoman Mathison | Aye ___ | Nay ___ | Absent ___ | Abstain ___ |
| Councilman-at-Large McDaniel | Aye ___ | Nay ___ | Absent ___ | Abstain ___ |
| Councilwoman Mitchell | Aye ___ | Nay ___ | Absent ___ | Abstain ___ |
| Councilwoman Williams | Aye ___ | Nay ___ | Absent ___ | Abstain ___ |

UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

VOLUNTARY COMPLIANCE AGREEMENT
Pursuant to Title VI of the Civil Rights Act of 1964 and
Section 109 of Title I of the Housing and
Community Development Act of 1974

And

CONCILIATION AGREEMENT
Pursuant to Title VIII of the Civil Rights Act of 1968;
As amended by the Fair Housing Amendments Act of 1988

between

Rosa M. Soriano
6142 Jefferson Avenue
Berkeley, MO 63134
(Complainant)

and

Theodore Hoskins, Mayor
City of Berkeley
8245 Airport Road
Berkeley, MO 63134

Respondent

and

Debra Irvin
Building Commissioner/Director of Public Works
City of Berkeley
8245 Airport Road
Berkeley, MO 63134

Respondent

and

Respondent

Approved by the FHEO Region VII Director on behalf of the United States Department of
Housing and Urban Development

FHEO CASE NUMBER: 07-15-0231-8; 07-15-0231-6; 07-15-0231-9

A. PARTIES AND SUBJECT PROPERTY

- Rosa Soriano (Complainant)
- City of Berkley (Respondent)
- Debra Irvin (Respondent)
- Theodore Hoskins (Respondent)
- Description of Subject Property: The subject unit is a single family home owned and rented to tenants by Rosa Soriano. The property is located at 6117 Jefferson Avenue, Berkeley, Missouri 63134.

B. STATEMENT OF FACTS

A complaint was filed on January 30, 2015, with the United States Department of Housing and Urban Development (“HUD” or the “Department”) alleging that the Complainant was injured by a discriminatory act of the Respondents. Complainant alleged that the Respondents violated §804(b), §804(c), and §818, of the Fair Housing Act, as amended in 1988, 42 U.S.C. §§ 3604 *et seq.* (the “Act”), on the basis of national origin, Hispanic. Complainant alleged Respondents are discriminating against her by refusing to issue her an occupancy permit, making derogatory statements, and intimidating, threatening and harassing her due to her national origin.

Respondents deny having discriminated against Complainant, but agree to settle the claims in the underlying action by entering into this conciliation agreement.

C. TERM OF AGREEMENT

1. This Conciliation Agreement (hereinafter “Agreement”) shall govern the conduct of the parties to it for a period of one (1) year from the effective date of the Agreement.
2. It is understood that the Agreement does not constitute an admission by the Respondents of any violation of the Act or any other federal statute or regulation, nor does the Agreement constitute evidence of a determination by the Department of any violation of the Act or other federal statute or regulation.

D. EFFECTIVE DATE

3. The parties expressly agree that this Agreement constitutes neither a binding contract under state or federal law nor a Conciliation Agreement pursuant to the Act, unless and until such

time as it is approved by the Department, through the FHEO Region VII Director, or his or her designee.

4. This Agreement shall become effective on the date on which it is approved by the FHEO Region VII Director, 400 State Avenue, Gateway Tower II, Room 400, Kansas City, Kansas, 66101.

E. GENERAL PROVISIONS

5. The parties acknowledge that this Agreement is a voluntary and full settlement of the disputed complaint. The parties affirm that they have read and fully understand the terms set forth herein. No party has been coerced, intimidated, threatened, or in any way forced to become a party to this Agreement.
6. The Respondents acknowledge that they have an affirmative duty not to discriminate under the Act, and that it is unlawful to retaliate against any person because that person has made a complaint, testified, assisted, or participated in any manner in a proceeding under the Act. Respondents further acknowledge that any subsequent retaliation or discrimination constitutes both a material breach of this Agreement, and a statutory violation of the Act. The Respondents acknowledge and certify it shall abide by Section 109 of Title I of the Housing and Community Development Act of 1974, as amended, 42 U.S.C. § 5309, and its implementing regulations at Title 24, Code of Federal Regulations, Part 6, Sections 6.1 et seq. (24 C.F.R. § 6.1 et seq. or Section 109) and Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d and its implementing regulations published in 24 C.F.R. § 1.1 et seq.
7. This Agreement, after it has been approved by the FHEO Region VII Director, or his or her designee, is binding upon Respondents, their employees, heirs, successors and assigns and all others in active concert with them in the enforcement of Berkley City Ordinances regarding occupancy code.
8. It is understood that, pursuant to Section 810(b) (4) of the Act, upon approval of this Agreement by the FHEO Region VII Director, or his or her designee, it is a public document.
9. This Agreement does not in any way limit or restrict the Department's authority to investigate any other complaint involving Respondents made pursuant to the Fair Housing Act, or any other complaint within the Department's jurisdiction.
10. No amendment to, modification of, or waiver of any provisions of this Agreement shall be effective unless: (a) all signatories or their successors to the Agreement agree in writing to the amendment, modification or waiver; (b) the amendment, modification or waiver is in writing; and (c) the amendment, modification, or waiver is approved and signed by the FHEO Region VII Director.

11. The parties agree that the execution of this Agreement may be accomplished by separate execution of consents to this Agreement, the original executed signature pages to be attached to the body of the Agreement to constitute one document.
12. Complainant Rosa Soriano hereby forever waives, releases, and covenants not to sue the Department or Respondents City of Berkley, Debra Irvin, Theodore Hoskins, and their heirs, executors, assigns, agents, employees and attorneys with regard to any and all claims, damages and injuries of whatever nature whether presently known or unknown, arising out of the subject matter of HUD Case Number 07-15-0231-8, or which could have been filed in any action or suit arising from said subject matter.
13. Respondents City of Berkley, Debra Irvin, Theodore Hoskins hereby forever waive, release, and covenant not to sue the Department or Complainant Rosa Soriano, and their successors, assigns, agents, officers, board members, employees and attorneys with regard to any and all claims, damages and injuries of whatever nature whether presently known or unknown, arising out of the subject matter of HUD Case Number 07-15-0231-8, or which could have been filed in any action or suit arising from said subject matter.

F. RELIEF FOR COMPLAINANT

14. The City has taken affirmative steps to allow Complainant to use her foreign identification and an interpreter, and to obtain an occupancy permit for the subject property. In addition, in any future interactions with the City, the Complainant may use foreign identification or other documents that the Complainant uses in the ordinary course of business, or her daily transactions, to prove her identity. Further, the Complainant will be permitted the use of translators in all interactions with City Officials, and the City will provide any required applications, including instructions for completing those applications, in Spanish.

G. RELIEF IN THE PUBLIC INTEREST

15. *Within 90 days of the effective date of this Agreement, Respondents agree to add a provision to the City's existing human rights ordinance stating that "foreign forms of identification will be treated the same as United States' identification for the purposes of establishing a person's identity when identification is requested or required by the City." (Ordinance sent to Attorney Smith 2/10/2017)*
16. *Within 30 days of the effective date of this Agreement, Respondents agree to have all City applications, including any instructions for completing the applications, available in Spanish. Upon request, Respondents agree to make available, in a reasonable time, all City applications, including any instructions for completing the applications, in languages other than English or Spanish. (This could be costly in languages other than Spanish) For example, German, Italian, French...)*
17. *Within 30 days of the effective date of this agreement, Respondents agree to issue a press release and to have a press conference announcing the policies and/or terms set forth in Paragraph G, *infra*.*

18. Within 30 days of the effective date of this Agreement, the Respondents shall inform all of their agents and employees responsible for compliance with this Agreement, including any officers and elected officials, of the terms of this Agreement and shall provide each such person with a copy of this Agreement. Respondents further agree that this Agreement shall be made available to the public, upon request.
19. (a) Within 90 days of the effective date of this Agreement, Respondents agree that ~~all~~ (Permit Technician, senior inspector and building commissioner) staff will attend three hour of fair housing training that focuses on Respondents' obligations under the Act, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973 and Section 109 of Title I of the Housing and Community Development Act of 1974.

(b) Upon receipt of a written request, FHEO will provide one or more employees, at no costs to the Respondents and subject to the availability of FHEO travel funds, to prepare and conduct training that complies with this Agreement. (Council to agree to)
20. Within 10 days of the effective date of this Agreement, Respondents agree to display a HUD Fair Housing logo at the application site for the occupancy permit. (Done 2/10/2017)
21. Within 30 days of the effective date of this Agreement, Respondents will develop a policy or procedure for allowing the use of interpreters in actions with the City. (Done 4/2015, sent to Attorney Smith, 2/10/2017)

H. MONITORING

22. The Department shall determine compliance with the terms of this Agreement. During the term of this Agreement, HUD may review compliance with this Agreement. As part of such review, HUD may examine witnesses, inspect Respondents' property identified in Section A of this Agreement, and copy pertinent records of the Respondents. Respondents agree to provide their full cooperation in any monitoring review undertaken by HUD to ensure compliance with this Agreement.

I. REPORTING AND RECORDKEEPING

23. Within 90 days of the effective date of this Agreement, Respondents shall certify to the FHEO Region VII Director, in writing, that they have complied with paragraphs 15, 16, 17, 18, 19, 20 and 21 of this Agreement. (For Attorney Smith)
24. All required certifications and documentation of compliance must be submitted to:

Ed Wartts, FHEO Director
U.S. Department of Housing and Urban Development
Office of Fair Housing and Equal Opportunity
Robert A. Young Federal Building
1222 Spruce Street
St. Louis, MO 63103

J. CONSEQUENCES OF BREACH

25. Whenever the Department has reasonable cause to believe that the Respondents have breached this Agreement, the matter may be referred to the Attorney General of the United States, to commence a civil action in the appropriate U. S. District Court, pursuant to §§ 810(c) and 814(b)(2) of the Act.

K. SIGNATURES

Rosa Soriano
(Complainant)

Date

K. SIGNATURES (2)

Theodore Hoskins, Mayor
City of Berkeley
(Respondent)

Date

Debra Irvin, Building Commissioner
Director of Public Works, City of Berkeley
(Respondent)

Date

L. APPROVAL

Betty Bottiger
FHEO Region VII Director

Date