IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

UNITED STATES OF AMERICA, Plaintiff, v. SUSSEX COUNTY, DELAWARE, and PLANNING AND ZONING COMMISSION OF SUSSEX COUNTY, Defendants.	)	Civil Action No. 12-1591-MPT CONSENT DECREE

1. The United States initiated this action to enforce the Fair Housing Act, Title VIII of the Civil Rights Act of 1968, as amended ("the Fair Housing Act" or "the FHA"), 42 U.S.C. §§ 3601-3619. In its Complaint, the United States alleges that Sussex County, Delaware ("the County"), and the Planning and Zoning Commission of Sussex County ("the Planning and Zoning Commission" or "the Commission") violated the FHA by denying the application of Diamond State Community Land Trust ("Diamond State CLT") for preliminary subdivision plat approval for New Horizons, a proposed community of low-income housing in Sussex County. Specifically, the United States alleges that the defendants violated 42 U.S.C. § 3604(a) by making unavailable or denying dwellings to persons on the basis of race, color, or national origin and violated 42 U.S.C. § 3617 by interfering with the exercise or enjoyment of rights under the FHA. The United States further alleges that the defendants' conduct constitutes a denial of rights to a group of persons that raises an issue of general public importance in violation of the FHA, 42 U.S.C. § 3614(a), and a discriminatory housing practice under 42 U.S.C. § 3614(b)(1).

2. Diamond State CLT is a nonprofit corporation that provides affordable housing throughout the State of Delaware to households earning no more than 80 percent of the Area Median Income as calculated by the U.S Department of Housing and Urban Development ("HUD"). In or around 2007, Diamond State CLT began developing a project to build a subdivision of affordable housing in Sussex County. In the spring of 2010, Diamond State CLT submitted its final revised application and supporting materials seeking preliminary cluster subdivision plat approval from the Planning and Zoning Commission for New Horizons, a community of 50 affordable single-family homes in southwest Sussex County near the town of Laurel, Delaware. On July 14, 2010, the Commission voted to deny Diamond State CLT's application, and the County Council affirmed that decision on October 19, 2010. The United States alleges that the defendants' actions were taken because of the race, color, or national origin of the prospective residents of the affordable housing in the New Horizons development. It remains the intent of Diamond State CLT to develop New Horizons at the proposed location.

3. On November 29, 2010, Diamond State CLT filed a timely complaint with HUD pursuant to 42 U.S.C. § 3610 against the Sussex County Council and the Commission, alleging discrimination in housing on the bases of race, color, and national origin. Pursuant to the requirements of 42 U.S.C. § 3610, the Secretary of HUD determined that the complaint involved the legality of state or local zoning or other land use laws or ordinances. Accordingly, pursuant to 42 U.S.C. § 3610(g)(2)(C), on or about January 24, 2012, the Secretary referred this matter to the Attorney General for appropriate action.

4. The Defendants deny all allegations in the complaint and contend that all of their actions and decisions were based on legitimate and nondiscriminatory reasons. The performance

of any acts under this Consent Decree (hereinafter the "Decree") does not constitute any admission or finding of fault or liability whatsoever on the part of the Defendants. The United States and the defendants agree that the broad and equitable distribution of affordable housing promotes sustainable and integrated residential patterns, increases fair and equal access to economic, educational and other opportunities, and advances the health and welfare of the residents of Sussex County. The parties further agree that, in order to avoid protracted and costly litigation, this lawsuit should be resolved without a trial. Therefore, the parties consent to the entry of this Decree, as shown by the signatures of their representatives below.

5. This Decree is effective immediately upon its entry by the Court. For purposes of this Decree, the phrase "date of this Decree" shall refer to the date on which the Court adopts this Decree as an order of the Court.

6. For the purposes of this Decree, the terms "dwelling" and "person" have the meanings set out in the FHA, 42 U.S.C. § 3602(b) and (d).

7. For the purposes of this Decree, the term "Affordable Housing" means housing in which any portion thereof is designed or intended to serve households earning less than 80 percent of the Area Median Income as calculated by the U.S. Department of Housing and Urban Development.

ACCORDINGLY, it is hereby ADJUDGED, ORDERED, and DECREED:

I. GENERAL INJUNCTION

8. The defendants, their employees, elected or appointed officials, officers, agents, and all other persons or entities acting in concert or participation with them, are enjoined from:

a. Discriminating in the sale or rental of a dwelling or otherwise making unavailable or denying a dwelling to any person because of the race, color, or national origin of that person or of any person obtaining, residing in, or intending to reside in such dwelling or of any person associated with that buyer or renter;

b. Adopting, maintaining, enforcing or implementing any zoning or land-use laws, regulations, policies, procedures, or practices that discriminate on the basis of race, color, or national origin in violation of the FHA, or enforcing or implementing any neutral zoning or land-use laws, regulations, policies, procedures, or practices in a manner that discriminates on the basis of race, color, or national origin in violation of the FHA;

c. Coercing, intimidating, threatening, interfering with, or retaliating against any person in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by the FHA; or

d. Interfering with the funding, development, or construction of any affordable housing because of the race, color, or national origin of its prospective residents.

II. DEVELOPMENT OF NEW HORIZONS BY DIAMOND STATE CLT

9. The defendants, their employees, elected or appointed officials, officers, agents, and all other persons or entities acting in concert or participation with them, are enjoined from obstructing, delaying, or interfering with any affordable housing that is being developed and/or constructed or that is proposed to be developed and/or constructed in Sussex County by Diamond State CLT (including, but not limited to, the proposed cluster subdivision near Laurel, Delaware, to be known as New Horizons), or by any entities owned by or associated with Diamond State

CLT, without a substantial, material, and competent justification that is neutral on its face, consistent with applicable zoning and land-use laws, regulations, policies, and procedures, and based on standards that are universally applied throughout the County.

10. The Planning and Zoning Commission shall reconsider the application by Diamond State CLT for preliminary cluster subdivision plat approval for New Horizons in accordance with the following provisions:

a. Upon submission by Diamond State CLT of either (1) a revised application and supporting materials or (2) a written request for rehearing on the application and supporting materials originally considered by the Commission at a public hearing on June 10, 2010, the Commission shall schedule a hearing on the application at the next available date, and in no event later than 45 days after Diamond State CLT submits its revised application or written request for rehearing;

b. At this hearing, the Commission shall, at a minimum, review any proposed conditions on the approval of the preliminary subdivision plat submitted by Diamond State CLT;

c. Following the conclusion of the hearing, the Commission shall vote on the preliminary subdivision plat in accordance with applicable zoning and land-use laws, regulations, policies, and procedures. The Commission shall not deny approval for the preliminary subdivision plat, nor shall it impose any conditions on the approval that are materially different or additional to those proposed by Diamond State CLT, without a substantial, material, and competent justification that is: neutral on its face; consistent with existing zoning and land-use laws, regulations, policies, and procedures; based on standards that

are universally applied throughout the County; and documented in detailed written findings explaining the specific grounds for the action.

d. In its review of and decision on Diamond State CLT's preliminary subdivision plat application for New Horizons, the Commission shall consider only those factors set forth in Sussex County Subdivision and Zoning Codes, including specifically § 99-9(C) and shall specifically recognize the following:

i. Diamond State CLT is not proposing the New Horizons development under the County's Moderately Priced Housing Unit Program (Ch. 77 of the Sussex County Code), and thus the requirements or criteria applicable to development proposals brought under that program do not apply;

ii. Delaware State Strategies for Policies and Spending should not be used as a basis for denial if the project otherwise complies with the Sussex County Code, and in particular, the subdivision ordinance (Ch. 99 of the Sussex County Code);

iii. With regard to the application for New Horizons, proximity to public transportation cannot form a basis for denial of the application; and

iv. The Sussex County Zoning Code (Ch. 115 of the Sussex County Code) does not limit cluster subdivisions to Town Centers, Developing Areas, or Environmentally Sensitive Developing Areas as designated by the County's Comprehensive Plan; and

e. Within seven (7) days of acting on Diamond State CLT's application in accordance with this paragraph, the defendants shall issue a public notice of such action in *The*

News Journal and *The Sussex Countian* periodicals directing readers to the County's website (as referenced in paragraph 11(e) below) for more information.

11. The defendants shall work in full cooperation and good faith with Diamond State CLT to facilitate the funding, development, and construction processes for New Horizons. The defendants' good faith efforts shall include, but not be limited to, the following:

a. During the term of this Decree, the defendants, their employees, elected or appointed officials, officers, agents, and all other persons or entities acting in concert or participation with them shall not publicly disparage Diamond State CLT or the proposed New Horizons development or publicly question the viability of the community land trust model for affordable housing development;

b. The defendants shall, upon request by Diamond State CLT and in a timely manner, provide letters from the County to actual or potential funders or any other governmental entity indicating the County's support for the development of New Horizons. Any such letters shall, at a minimum, express support for the development of New Horizons; explain how New Horizons comports with the County's goal to "[f]acilitate decent, safe, and sanitary housing for low and moderate income people throughout Sussex County," as expressed in the Housing Element of the County's June 2008 Comprehensive Plan Update; and contain any specific information required from the County by the funder or governmental entity;

c. The defendants shall ensure that all zoning, land use, building, and any other type of approvals or permits required by the defendants are issued in a timely manner in order to allow development and construction to proceed. Nothing in this paragraph shall be construed to prevent the defendants from applying their zoning and land-use requirements in a

non-discriminatory manner or from ensuring that New Horizons complies with valid requirements of applicable law;

d. The defendants shall generally cooperate with Diamond State CLT throughout the remainder of the state and County-level planning and approval processes, and throughout the infrastructure development, building permit process, construction and sales phases of the New Horizons development; and

e. Within thirty (30) days after the approval of the final subdivision plat for New Horizons, the defendants shall list the New Horizons development as an affordable housing subdivision on the County's Community Development and Housing website, separate from information on the website regarding the County's Moderately Priced Housing Unit Program. The defendants shall include the name and location of the New Horizons development, the number and type of homes available in that development, the eligibility criteria for potential homebuyers, and contact information for Diamond State CLT. Defendants shall submit to the Department of Justice ("DOJ")[1] a printout of the Community Development and Housing website showing the information on New Horizons as described in this paragraph within ten (10) days of listing the New Horizons development on the website.

III. ADDITIONAL PROVISIONS RELATED TO AFFORDABLE AND FAIR HOUSING

12. During the term of this Decree, if the Planning and Zoning Commission declines, rejects, or denies any type of request or application for zoning or land use approval relating to an Affordable Housing proposal or a proposal processed under the Moderately Priced Housing Unit

[1] All submissions to DOJ required by the Consent Decree, including all those required by part VII, below, shall sent by overnight courier addressed to: Chief, Attn: DJ #175-15-46, Housing and Civil Enforcement Section, Civil Rights Division, United States Department of Justice, 1800 G Street NW, Washington, DC, 20006.

Program or the Sussex County Rental Program, or if the Sussex County Council affirms any such decision, then the entity so acting shall prepare detailed written findings explaining the specific grounds for its action. For purposes of this provision, the failure to act on a request within a reasonable time period shall be deemed a denial. A copy of any written findings shall be provided to the person or persons making the request or application within ten (10) days of the date on which the final decision was made.

13. For the duration of this Decree, the defendants shall undertake an Affordable and Fair Housing Marketing Plan to encourage the development of housing opportunities, including Affordable Housing and housing developed under the Moderately Priced Housing Unit Program and the Sussex County Rental Program, that are available and accessible to all residents of Sussex County regardless of race, color, or national origin. Within one hundred (100) days of the date of this Decree, the defendants shall submit to DOJ a proposed Affordable and Fair Housing Marketing Plan. DOJ shall review and approve or suggest changes to the Plan within thirty (30) days. Upon approval by DOJ, the defendants shall proceed to implement the Plan within five (5) days. The defendants shall include in the Affordable and Fair Housing Marketing Plan the following:

a. A description of the specific outreach and marketing activities the defendants will undertake, entities the defendants will contact, and materials the defendants will use to encourage housing developers to propose and construct affordable housing throughout Sussex County. Specifically, the parties agree that the defendants' activities under this subparagraph will include, but not be limited to, the following:

i. the County will encourage developers to affirmatively market their units to diverse populations by making it clear in the County's comments during the PLUS process on the development proposal that this is the County's policy;

ii. the County will develop standard language that will be incorporated into every residential development plan review subject to the PLUS process which sets forth the County's policy to affirmatively further fair housing by emphasizing the desire for the creation of racially/ethnically diverse, mixed-income communities and encouraging developers to affirmatively market their units to diverse populations;

iii. the County will propose an ordinance to modify its Moderately Priced Housing Unit ("MPHU") Program to apply to homebuyers earning 50% to 125% of the County's median income;

iv. the County will continue discussions with Diamond State CLT and other providers of low to moderate income housing to create additional incentives within the MPHU Program to entice developers to price some homes to be affordable to lower area median income families; and

v. the County will formulate a policy regarding Affordable Housing projects seeking support, including provisions through which an Affordable Housing project may obtain conditional support letters from the County commending Affordable Housing construction and/or may obtain waivers of certain fees relating to the planning approval process.

b. A description of the specific outreach and marketing activities the defendants will undertake, entities the defendants will contact, and materials the defendants will

use to advertise housing opportunities, including affordable housing, in Sussex County to all residents of the County regardless of race, color, or national origin;

c. A description of a webpage to be created by the County on its website addressing these topics, including the proposed content of the webpage; and

d. A timetable for implementation of each specific activity.

IV. FAIR HOUSING COMPLIANCE OFFICER

14. Within thirty (30) days after the entry of this Decree, the defendants shall designate an existing Sussex County employee as the Fair Housing Compliance Officer ("FHCO"). The FHCO shall have the responsibility to receive complaints of alleged discrimination in housing, zoning, and/or land use against Sussex County, serve as a resource to the defendants and their officers, elected and appointed officials, employees, and agents on fair housing, and coordinate the County's compliance with this Decree.

15. The FHCO shall be designated to receive and review all complaints of housing discrimination made against the defendants or any officer, elected or appointed official, employee, or agent of the defendants. If complaints are made verbally, the FHCO shall make a contemporaneous written record of those complaints.

16. Within fifteen (15) days of receiving a complaint of housing discrimination made against the defendants or any officer, elected or appointed official, employee, or agent of the defendants, the FHCO shall provide HUD and DOJ with a copy of the complaint, any documents filed with the complaint, and any written response to the complaint by the defendants, and shall inform both HUD and DOJ whether the complaint has been resolved. If the complaint has not

been resolved, the FHCO shall inform HUD and DOJ of any efforts the defendants undertook or plan to undertake to resolve the complaint.

17. The FHCO shall maintain copies of this Decree, the Fair Housing Policy described in part V, below, and the HUD Complaint form and HUD pamphlet entitled "Are you a victim of housing discrimination?" (HUD official forms 903 and 903.1, respectively) and make these materials freely available to anyone, upon request, without charge, including all persons making fair housing complaints to the FHCO.

18. During the term of this Decree, the FHCO shall report to the County every six months on activities taken in compliance with this Decree.

V. FAIR HOUSING POLICY

19. Within thirty (30) days of the date of this Decree, the defendants shall adopt a Fair Housing Policy, the text of which shall include the content found in Attachment A to this Decree. The Fair Housing Policy shall list the name and contact information for the County's Fair Housing Compliance Officer designated in accordance with part IV, above. The defendants shall include the Fair Housing Policy in all literature and information or application materials provided to residential developers, including developers of affordable housing. The defendants shall include the Fair Housing Policy as a readily accessible link on the County's website.

20. Within thirty (30) days of the date of this Decree, the defendants shall place the phrase "Equal Housing Opportunity" or the fair housing logo (as described in 24 C.F.R. § 110.25) on the County's website. The defendants shall place the same in all future published notices and advertisements related to housing or residential development.

VI. TRAINING

21. Within ninety (90) days of the entry of this Decree, and annually thereafter for the duration of this Decree, the defendants shall provide in-person training on the requirements of this Decree and of the FHA to all County officers, elected and appointed officials, or employees who have duties related to the planning, zoning, permitting, construction, or occupancy of residential housing, including, but not limited to: the County Administrator; all members, staff and employees of the Planning and Zoning Commission, the Board of Adjustment, and the County Council; and all staff and employees of the Department of Community Development and Housing and the Department of Planning and Zoning. The training(s) should be conducted in accordance with the following:

a. The training(s) shall be conducted by a qualified third part(y/ies), subject to the approval of the United States. The trainer(s) shall not be connected to the defendants or their officers, elected or appointed officials, employees, agents or counsel. No fewer than sixty (60) days before the date of each training under this paragraph, the defendants shall submit to DOJ the name of the person(s) or organization(s) proposed to provide the training, together with copies of the professional qualifications of such person(s) or organization(s) and copies of all materials to be used in the training.

b. Any expenses associated with the training(s) shall be borne by the defendants.

c. The training(s) shall be video recorded, and the defendants shall maintain copies of the written materials provided for each training. Each newly elected, appointed, or hired individual covered by this paragraph shall first receive training within thirty (30) days after the date he or she enters office or commences service or employment, either (1) by attending the

next regularly scheduled annual live training, if it occurs within the thirty (30) day period, or (2) by reviewing the recording of the most recent live training and receiving copies of any written materials provided for that training.

22. The defendants shall provide a copy of this Decree to each person required to receive the training(s).

23. The defendants shall require each trainee to execute a certification confirming: i) his or her attendance; ii) the date of the training; and iii) his or her receipt and comprehension of the Decree. The Certification of Training and Receipt of Consent Decree appears at Attachment B to this Decree. All trainees shall complete the certifications at the conclusion of each training session.

VII. REPORTING AND RECORD KEEPING

24. Within ten (10) days of acting upon Diamond State CLT's preliminary subdivision plat application for New Horizons as described in paragraph 10, above, the defendants shall submit the following to DOJ in writing:

a. The Planning and Zoning Commission's decision on the New Horizons preliminary subdivision plat, including a list of any conditions imposed;

b. Any detailed written findings as described in paragraph 10(c), above, if applicable; and

c. Copies of public notices published as described in paragraph 10(e), above.

25. Within thirty-five (35) days after entry of this Decree, the defendants shall submit the following to DOJ in writing:

a. The name, address and telephone number of the Fair Housing Compliance

Officer described in part IV, above. Should the identity of the Compliance Officer change during the term of this Decree, the defendants shall, within fifteen (15) days of such change, notify DOJ in writing of the name of the new Officer and his or her contact information;

b. A copy of the final adopted Fair Housing Policy as described in paragraph 19, above;

c. A printout of the website showing the phrase "Equal Housing Opportunity" or the fair housing logo as described in paragraph 20, above; and

d. The name of the initial fair housing trainer(s) and other information required by paragraph 21(a), above.

26. Within one hundred (100) days after entry of this Decree, the defendants shall submit all executed copies of the Certification of Training and Receipt of Consent Decree (Attachment B) described in paragraph 23, above, and the proposed Affordable and Fair Housing Marketing Plan described in paragraph 13, above.

27. The defendants shall develop an Affordable Housing webpage to be publicly accessible from the County's main website. At least twice annually for the term of this Decree, defendants will post compliance reports on the Affordable Housing webpage detailing all actions they have taken to fulfill their obligations under this Decree since the last compliance report posting. The defendants shall post their first report and notify the United States of such posting within six (6) months after entry of the Decree, and post subsequent reports every six (6) months thereafter for the duration of the Decree, except that the final report posting shall be made with notification to the United States not less than sixty (60) days prior to the expiration of this Decree. The defendants shall include in the compliance report postings, at a minimum, links

to the following information:

a. Copies of any letters of support by the defendants for New Horizons as described in paragraph 11(b), above;

b. A summary of each zoning or land-use request or application related to Affordable Housing or housing being processed under the Moderately Priced Housing Unit Program or the Sussex County Rental Program (including, but not limited to, those for subdivision plat approvals, site plans, variances, or building permits) on which the defendants have made a determination, indicating: i) the date of the application; ii) the applicant's name; iii) the applicant's current street address; iv) the street address of the subject property or proposed housing; v) the defendants' decision(s) regarding the matter, including any decision on appeal; vi) the reasons for each decision, including a summary of the facts upon which the defendants relied and a copy of any detailed written findings issued relating to denied affordable housing proposals as described in paragraph 12, above, if applicable; and vii) links to any minutes or audio recordings from all meetings or hearings discussing the zoning request or application;

c. Representative copies of any published notices or advertisements containing the phrase "Equal Housing Opportunity" or the fair housing logo as described in paragraph 20, above;

d. Copies of any Certifications of Training and Receipt of Consent Decree (Attachment B) described in paragraph 23, above, that are signed after the preceding compliance report was issued;

e. Copies of any materials that have been previously submitted to DOJ under this Decree if such materials have been substantially altered or amended since they were last

submitted to DOJ; and

f. Copies of any changes to the County's zoning or land-use laws, regulations, policies or procedures addressing the construction of or approval process for Affordable Housing or housing being processed under the Moderately Priced Housing Unit Program or the Sussex County Rental Program that were enacted after the preceding compliance report was issued.

28. The defendants shall provide DOJ with a copy of any proposed change to the County's zoning or land-use laws, regulations, policies or procedures addressing the construction of or approval process for Affordable Housing or housing being processed under the Moderately Priced Housing Unit Program or the Sussex County Rental Program, or a link to the proposed change on County's Affordable Housing webpage, prior to the consideration of the proposed change by the defendants. The notice to DOJ may be made electronically and will be made to coincide with any public notice requirement under State law.

29. For the duration of this Decree, the defendants shall retain all records relating to any provision of this Decree. DOJ shall have the opportunity to inspect and copy any such records after giving reasonable notice to counsel for the defendants.

VIII. COMPENSATION OF AGGRIEVED PERSONS

30. Within sixty (60) days after entry of this Decree, the defendants shall pay from insurance proceeds the amount of seven hundred fifty thousand dollars ($750,000.00) to Diamond State CLT for the purpose of compensating it for the harm that it suffered as a result of the defendants' decisions not to approve the preliminary cluster subdivision plat for the New Horizons development. The sum shall be paid by wire transfer to Relman, Dane & Colfax

PLLC, counsel for Diamond State CLT.

31. Upon entry of this Decree, the United States will obtain within ten (10) days from Diamond State CLT a signed release in the form of Attachment C to this Decree. Within five (5) days of obtaining the signed release referenced herein, counsel for the United States will notify counsel for the defendants that it is in possession of the signed release. Within five (5) days of receiving notice that counsel for Diamond State CLT has received the wire transfer described in paragraph 30 of this Decree, counsel for the United States shall deliver the original, signed release to counsel for the defendants.

IX. JURISDICTION AND SCOPE OF DECREE

32. The parties stipulate and the Court finds that the Court has personal jurisdiction over the defendants for purposes of this civil action, and subject matter jurisdiction over the United States' claims in this action pursuant to 28 U.S.C. §§ 1331 and 1345, and 42 U.S.C. §§ 3614(a) and 3614(b)(1).

33. This Decree shall remain in effect for a period of four (4) years after its entry. The Court shall retain jurisdiction over the action for the duration of the Decree for the purpose of enforcing its provisions and terms. The case shall be dismissed with prejudice when the Decree expires. The United States may move the Court to extend the duration of the Decree in the interests of justice.

34. Any time limits for performance imposed by this Decree may be extended by mutual written agreement of the parties. The other provisions of this Decree may be modified by written agreement of the parties or by motion to the Court. If the modification of a provision other than a time limit for performance is made by written agreement of the parties, then such

modification will be effective upon filing of the written agreement with the Court and remain in effect for the duration of the Decree or until such time as the Court indicates through written order that it has not approved the modification.

X. ENFORCEMENT OF THIS DECREE

35. The parties shall endeavor in good faith to resolve informally any differences regarding interpretation of and compliance with this Decree prior to bringing such matters to the Court for resolution. However, in the event of a failure by the defendants to perform in a timely manner any act required by this 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. Remedies include, but are not limited to, findings of contempt, an order requiring performance of such act or deeming such act to have been performed, and an award of any damages, costs, and reasonable attorneys' fees that may have been occasioned by the violation or failure to perform.

XI. COSTS AND FEES

36. The parties will bear their own costs and fees associated with this litigation.

XII. TERMINATION OF LITIGATION HOLD

37. The parties agree that, as of the date of the entry of this Consent Decree, litigation is not "reasonably foreseeable" concerning the matters described above. To the extent that either party previously implemented a litigation hold to preserve documents, electronically stored information (ESI), or things related to the matters described above, the party is no longer required to maintain such litigation hold. Nothing in this paragraph relieves either party of any other obligations imposed by this Consent Decree.

IT IS SO ORDERED:

This 19 day of December, 2012.

United States ~~District~~ Judge
MAGISTRATE

The undersigned hereby consent to and apply for entry of this Consent Decree:

For the United States of America:

Dated: November 28, 2012

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Civil Rights Division

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For Sussex County, Delaware and Planning and Zoning Commission of Sussex County:

Dated: November 27, 2012

MICHAEL H. VINCENT
President, Sussex County Council

ROBERT C. WHEATLEY
Chairman, Planning and Zoning Commission of Sussex County

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Counsel for the Defendants

ATTACHMENT A

NONDISCRIMINATION POLICY

It is the policy of Sussex County to comply with the Fair Housing Act, as amended, 42 U.S.C. §§ 3601-3619, by ensuring that its zoning and land use decisions do not discriminate against persons based on race, color, religion, national origin, disability, familial status or sex. This policy means that, among other things, the County and all its officials, agents and employees will not discriminate in any aspect of housing based on these protected characteristics, including by:

(a) making unavailable or denying a dwelling to any person based on a protected characteristic;

(b) discriminating against any person in the terms, conditions or privileges of a dwelling, or in the provision of services or facilities in connection therewith based on a protected characteristic;

(c) Making, printing, or publishing, or causing to be made, printed, or published any notice, statement, or advertisement, with respect to a dwelling that indicates any preference, limitation, or discrimination based on a protected characteristic;

(d) Representing to persons because of a protected characteristic that any dwelling is not available when such dwelling is in fact so available;

(e) interfering with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right protected by the Fair Housing Act;

(f) interfering with the funding, development, or construction of any affordable housing units because of a protected characteristic; and

(g) discriminating on the basis of race or color in any aspect of the administration of its zoning, land use, or building ordinances, policies, practices, requirements, or processes relating to the use, construction, or occupancy of dwellings.

Any person who believes that any of the above policies have been violated by the County may contact:

- Sussex County's Fair Housing Compliance Officer, _____, at _____,
- the U.S. Department of Housing and Urban Development at 1-888-799-2085, or
- the U.S. Department of Justice at 1-800-896-7743 or (202) 514-4713.

ATTACHMENT B

CERTIFICATION OF TRAINING AND RECEIPT OF CONSENT DECREE

On _____, I attended training on the federal Fair Housing Act. I have had all of my questions concerning these topics answered to my satisfaction.

I also have been given and I have read a copy of the Consent Decree entered in United States v. Sussex County, Delaware, et al., Case No. _____ (D. Del.). I understand my legal responsibilities and will comply with those responsibilities. I further understand that the Court may impose sanctions on Sussex County or the Planning and Zoning Commission of Sussex County if I violate any provision of this Decree.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

_____
Signature

_____
Print Name

_____
Date

_____
Position with Sussex County

_____
Home Street Address

_____
City, State, Zip

_____
Home Telephone Number

ATTACHMENT C

FULL AND FINAL RELEASE OF CLAIMS

In consideration for the parties' agreement to the terms of the Consent Decree they entered into in the case of United States v. Sussex County, Delaware, et al., Civil Action No. _____, as approved by the United States District Court for the District of Delaware, and in consideration for the payment of $750,000.00, Diamond State Community Land Trust, by the signature of its authorized representative below, does hereby fully release and forever discharge Sussex County, Delaware, and the Planning and Zoning Commission of Sussex County, along with their insurers, attorneys, related companies, principals, predecessors, successors, assigns, affiliates, partners, directors, officers, agents, employers, shareholders, subsidiaries, employees, heirs, executors, and administrators and any persons acting under their direction or control, 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 it may have had against any of them for any of the defendants' actions or statements related to those claims through the date of the entry of the Consent Decree, including, but not limited to, the claims asserted in its complaint in the case of Diamond State Community Land Trust, et al., v. Sussex County Planning and Zoning Commission, et al., C.A. No. S10A-11-006 JTV (Superior Court of the State of Delaware in and for Sussex County) (the "State Court Litigation"). Diamond State agrees to file a motion to voluntarily dismiss its case in the State Court Litigation within five (5) days of receiving the payment referenced herein.

Diamond State Community Land Trust also acknowledges that it has had an opportunity to review the terms of this Release with its legal counsel.

Diamond State Community Land Trust further waives any claims it may have against the United States of America, the Department of Justice, or its agents or employees, arising out of this action. This Full and Final Release of Claims constitutes the entire agreement between the defendants and me, without exception or exclusion.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this _____ day of _____, 20___.

_____
[Signature]

_____
[Print Name and Title]

UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE

CERTIFICATE OF SERVICE

I hereby certify that on November 28, 2012, I electronically filed the foregoing Consent Decree with the Clerk of Court using CM/ECF and served the document to the following non-registered participants by electronic mail and U.S. mail:

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