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December 28, 2012

ELECTRONIC TRANSMISSION AND FIRST CLASS MAIL

Ms. Barbara Delaney
(Barbara.R.Delaney@hud.gov)
Office of Fair Housing and Equal Opportunity
Philadelphia Center Director
100 Penn Square East - Wanamaker Building,
10th Floor
Philadelphia, PA 19107

Christopher J. Fregiato, Esq.
(Christopher.Fregiato@usdoj.gov)
Housing and Civil Enforcement Section
Civil Rights Division
U.S. Department of Justice
950 Pennsylvania Ave., N.W.
Northwestern Building, 7th Floor
Washington, D.C. 20530

Re: Sussex County Voluntary Compliance Agreement (HUD) and Consent Decree (USDOJ)

Dear Ms. Delaney and Mr. Fregiato:

The purpose of this correspondence is to confirm Sussex County's compliance with all 30 and 35-day requirements ("Short-term Requirements") in the Voluntary Compliance Agreement ("VCA") executed between Sussex County and the U.S. Department of Housing and Urban Development ("HUD") on November 28, 2012, and the Consent Decree ("CD") executed between Sussex County and the U.S. Department of Justice ("USDOJ") on November 28, 2012, entered by the Court on December 19, 2012. Since many of the Short-term Requirements are identical or overlap to a significant degree between the VCA and CD, this correspondence is meant to address all of these Short-term Requirements in this single compliance correspondence. Exhibits are attached where necessary.

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Requirements of the VCA.

There are two Short-term Requirements in the VCA:

1. Hire/Appoint Fair Housing Compliance Officer (VCA Sec. III.5).

Under Section III.5 of the VCA, the County must hire or appoint a Fair Housing Compliance Officer ("FHCO") to oversee compliance with the provisions of the VCA within 30 days of the effective date of the VCA. Such person must be designated in writing and a copy of that designation must be provided to HUD. The effective date of the VCA is November 28, 2012, therefore the FHCO must be hired or appointed by December 28, 2012. Attached as **Exhibit 1** is a letter from County Administrator Todd Lawson and the County Director of Human Resources Karen Brewington appointing Brandy B. Nauman as the FHCO, effective December 10, 2012. For your files, Ms. Nauman's contact information is:

Ms. Brandy Bennett Nauman
Housing Coordinator & Fair Housing Compliance Officer

Sussex County Community Development & Housing
22215 DuPont Boulevard, P.O. Box 589
Georgetown, DE 19947

Phone: 302.855.7779
Fax: 302.854.5397
Email: bnauman@sussexcountyde.gov

2. Publish the VCA (VCA Sec. IV).

Under Section IV of the VCA, the County must publish a Notice in a newspaper of general circulation and on its website regarding the VCA within 30 days of the effective date of the VCA or the CD, whichever is later. The Notice must provide a summary of the general provisions of the VCA and must be approved by HUD before it is published. Thirty days from the effective date of the VCA expires on December 28, 2012. Thirty days from the effective date of the CD expires on January 18, 2013.

HUD provided its approval of a draft Notice via email from Melody Taylor-Blancher to Stephanie Hansen on December 11, 2012. The Notice as approved by HUD was published in The News Journal on December 17, 2012 (see attached **Exhibit 2**) and on the County's website on December 12, 2012 (see attached **Exhibit 3.** Although the printout is dated December 19, 2012, the County first began publishing the VCA on its website on December 12, 2012).

Requirements of the Consent Decree

There are four Short-term Requirements in the CD:

1. Designation of Fair Housing Compliance Officer (CD Sec. IV.14).

Section IV.14 of the CD requires the County to designate an existing Sussex County employee as the Fair Housing Compliance Officer ("FHCO" as defined earlier) within 30 days of the date the Court adopts the CD as an order of the Court. Since the Court adopted the CD on December 19, 2012, the 30-day requirement would expire on January 18, 2013. Mentioned above as a requirement of the VCA, Ms. Brandy Nauman was designated as the FHCO on December 10, 2012. Documentation of her appointment is attached in **Exhibit 1.**

2. Adoption of Fair Housing Policy (CD Sec. V.19).

Section V.19 of the CD requires the County to adopt a Fair Housing Policy, the text of which was included as Attachment A of the CD, within 30 days of the date the Court adopts the CD as an order of the Court. The County is also required to include the Fair Housing Policy as a readily accessible link on the County's website. Since the Court adopted the CD on December 19, 2012, the 30-day requirement would expire on January 18, 2013.

The County adopted the Fair Housing Policy on December 11, 2012. Attached as **Exhibit 4** is a Certified Motion from the Council meeting at which the policy was adopted and a copy of the Fair Housing Policy. Also attached within **Exhibit 4** is the Fair Housing Policy link on the County's website.

3. Placement of Logo on County's Website (CD Sec. V.20).

Section V.20 of the CD requires the County to 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 within 30 days of the date the Court adopts the CD as an order of the Court. Since the Court adopted the CD on December 19, 2012, the 30-day requirement would expire on January 18, 2013. The County fulfilled this requirement by December 4, 2012 (see attached **Exhibit 5**).

This section also requires the County to place the logo on all future published notices and advertisements related to housing or residential development. In order to meet this requirement, the County has instructed its various departments and/or divisions that have a connection to housing or residential development (Planning and Zoning, Building Code, and Community Development and Housing) to include this logo on any published notices or advertisements, and all County Council, Planning and Zoning, and Board or Adjustment agendas from January 2013 going forward will contain the logo. The template agendas are attached and included as part of **Exhibit 5**. Also included within **Exhibit 5** are the letterhead templates for the Community Development and Housing Department.

4. Submission to USDOJ of Certain Documents (CD Sec. VII.25).

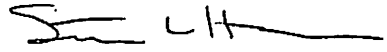
Section VII.25 of the CD requires the County to submit certain documents to USDOJ within 35 days of the date the Court adopts the CD as an order of the Court. Since the Court adopted the CD on December 19, 2012, the 35-day requirement expires on January 23, 2013. The following documents were required to be submitted: (1) Name, address, and telephone number of the FHCO (see **Exhibit 1** and the information presented above regarding the VCA); (2) a copy of the final adopted Fair Housing Policy (see **Exhibit 4**); (3) a printout of the website showing the phrase "Equal Housing Opportunity" or the fair housing logo (see **Exhibit 5**); and (4) the name and other information of the initial fair housing trainer (see **Exhibit 6**) as required in Section VI.21(a).

Under Section VI.21(a), the fair housing trainer is subject to the approval of USDOJ. In order to be approved by USDOJ, Section VI.21(a) also requires that the County provide the name of the trainer, his or her qualifications, and all materials to be used in the training. However, USDOJ and the County have slightly amended that portion of Section VI.21(a) which required that all materials to be used in the training be submitted to USDOJ prior to USDOJ approving the trainer. This change was necessitated by the realization that a trainer would not put together all of the materials prior to being hired by the County to do the training, and the County could not hire the trainer without the prior approval of the trainer by USDOJ. In order to work around this conundrum, USDOJ and the County have agreed that the name of the trainer, his or her qualifications, and an outline of the material the trainer will cover will be provided to USDOJ within the time period mentioned in Section VII.25. No later than thirty (30) days prior to the actual training date, the County will submit to USDOJ the proposed training materials of the trainer.

As required under the now modified provisions of Section VI.21(a), within **Exhibit 6**, the County is providing the name of the trainer, his qualifications, and an outline of the material the trainer will cover at the training session with the County. Please let me know if this trainer is approved.

With this correspondence, the County believes that it has satisfied all Short-term Requirements in both the VCA and the CD. In particular, we believe we have fulfilled the requirements of Sections III.5 and IV of the VCA, and Sections IV.14, V.19, V.20, and VII.25 as amended of the CD. Please contact me with any questions or comments.

Sincerely yours,



Stephanie L. Hansen

SLH:slh
cc: Ms. Melody Taylor-Blancher (via email only)
Mr. Todd Lawson (via email only)

Exhibit List

Exhibit 1 -	Letter Appointing Ms. Brandy Nauman as the FHCO
Exhibit 2 -	Public Notice of the VCA in The News Journal
Exhibit 3 -	Public Notice of the VCA posted on County Website
Exhibit 4 -	Certified Motion from December 11, 2012 County Council Meeting Adopted Fair Housing Policy Fair Housing Policy Link on County Website
Exhibit 5 -	Printout of Equal Housing Opportunity Logo on County Website Template Agendas Letterhead Templates for the Community Development and Housing Dept.
Exhibit 6 -	Cover Letter from Michael P. Morton Proposed Outline of Training Material Resumé of Michael Phillip Morton (Trainer) Certification of Michael Phillip Morton

Exhibit 1

HUMAN RESOURCES
KAREN BREWINGTON
DIRECTOR
(302) 855-7711 T
(302) 855-7715 F

Sussex County
DELAWARE
sussexcountyde.gov

December 5, 2012

Brandy B. Nauman
30116 West Mill Run
Milton, DE 19968

Dear Brandy,

This letter confirms your promotion from Housing Coordinator, pay grade 13 to the exempt position of Fair Housing Compliance Officer, pay grade 14 in the Community Development department effective December 10, 2012. Your annual base salary will be

The County has every confidence that you will perform your duties with the same dedication and enthusiasm that you have in the past. Good luck in your new position.

Should you have any questions or concerns please do not hesitate to call Human Resources at 302-855-7711.

Sincerely,

Karen Brewington
Director of Human Resources

Todd F. Lawson
County Administrator

cc: Brad Whaley
Director Community Development

Exhibit 2

KAS Legal

[illegible]

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12/17/2012

Exhibit 3

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Public Notices

Sussex County Voluntary Compliance Agreement

Sussex County - HUD VCA Public Notice

Posted By: Community Development & Housing Department

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Public Notice

Sussex County Voluntary Compliance Agreement

Sussex County signed a Voluntary Compliance Agreement (VCA) with the U.S. Department of Housing and Urban Development (HUD), dated November 28, 2012, addressing issues related to the prior denial of the New Horizons land development plan filed by the Diamond State Community Land Trust (DSCLT) for a property near Laurel, Delaware.

The following is a summary of the general provisions and corrective actions contained within the VCA:

(1) The VCA is not a final finding or determination by HUD that the County intentionally engaged in any unlawful practice and the County admits no wrong-doing.

(2) The VCA does not increase or decrease the ability of any person or class of persons to exercise their rights to sue for any alleged breach of the VCA and it does not affect the rights of any other person if they believe a Fair Housing or Civil Rights violation has occurred.

(3) HUD believes the VCA addresses all issues related to the New Horizons application and the County's requirement to affirmatively further fair housing.

(4) The VCA is a publicly-accessible document under Delaware's Freedom of Information Act. A copy may be requested from the County by following the instructions found at: http://www.sussexcountyde.gov/foia.cfm or can be accessed via HUD's website at http://portal.hud.gov/hudportal/documents/huddoc?id=13diamondstconc.pdf.

(5) Within 90 days and annually thereafter for four years, the County will receive training on the requirements of the Fair Housing Act and the U.S. Department of Justice Consent Decree related to this matter.

(6) The County will reconsider the New Horizons development plan and reimburse DSCLT $750,000 from insurance proceeds per the terms of the Consent Decree.

(7) The County will comply with guidance from the Delaware State Housing Authority (DSHA) designed to affirmatively further fair housing.

(8) The County will appoint or hire a Fair Housing Compliance Officer to oversee compliance with the VCA and the Consent Decree. If the Officer resigns or is terminated, a new Officer will be appointed within 15 days.

(9) The County will develop a priority fair housing plan to address any outstanding impediments to fair housing previously identified by the State (1998, 2003, and 2011 Analysis of Impediments will be evaluated) and will submit the plan to the State and HUD for approval. The plan will incorporate strategies to increase housing opportunities and mechanisms for affirmatively furthering fair housing using CDBG and other funds. The plan will incorporate a strategy to increase housing opportunities

throughout the County taking into account the housing needs of African American and Hispanic residents.

(10) In future planning efforts, the County will collaborate with the DSHA and the Office of State Planning and Coordination to develop an affordable housing strategy throughout the County.

(11) The County's Fair Housing Compliance Officer will identify successful models of affordable housing strategies from other jurisdictions for presentation to the County to assist the County in formulating its affordable housing policy.

(12) The County will amend its Moderately Priced Housing Unit program to apply to homebuyers earning 50% to 125% of the County's median income.

(13) The County will perform an internal evaluation of identified minority communities to determine investment strategies and develop a prioritization scheme and approval process for infrastructure improvements. The evaluation, the approval process, and the approvals granted will be posted on the County's website.

(14) The County will revise its methodology currently proposed by DSHA to target minorities with disproportionate housing needs to ensure that minorities are benefitting from all affordable housing programs supported by the County.

(15) The County will provide semi-annual reports to HUD detailing the steps it has taken to address all of the above items for the next four years.

Any questions regarding the VCA should be directed to Stephanie L. Hansen, Esq., Young Conaway Stargatt & Taylor LP, at (302) 571-6733 or shansen@ycst.com.

Exhibit 4

MICHAEL H. VINCENT, PRESIDENT
SAMUEL R. WILSON JR., VICE PRESIDENT
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Sussex County Council

CERTIFIED MOTION

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, that the Sussex County Council approves the aforementioned Fair Housing Policy required by the settlement terms of the Consent Decree entered into with the Department of Justice, effective December 11, 2012.

The Motion was adopted unanimously.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF A MOTION ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 11TH DAY OF DECEMBER 2012.

ROBIN A. GRIFFITH
CLERK OF THE COUNCIL

FAIR HOUSING 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, Brandy Nauman, at bnauman@sussexcountyde.gov or (302) 855-7777.
- 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.

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  - Progress
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- Neighborhood Stabilization Program 2
  - Sussex Homebuyer Assistance Program
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Fair Housing Policy

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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, Brandy Nauman, at bnauman@sussexcountyde.gov or (302) 855-7777.
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- the U.S. Department of Justice at 1-800-896-7743 or (202) 514-4713.

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Exhibit 5

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- News and Events
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Community Development & Housing

Welcome to the Sussex County Community Development and Housing Department.

The housing staff and I are committed to providing decent, safe, and affordable housing opportunities to people of low and moderate incomes in Sussex County. We work closely with federal and state agencies, as well as local municipalities to meet our goals of preserving Sussex County's housing stock for affordable housing.

Since 1990, our office has assisted over 2,400 families with housing needs. We are proud of the success of our program; however we know much more needs to be done for the residents of Sussex County. We currently have 800 families on our waiting list for housing rehabilitation and historically we receive enough funding to assist 125 jobs per year.

We're very pleased with our new Moderately Priced Housing Unit Program for working professionals. Our goal is to have homes built by 2010. The program's success is heavily reliant on the support and input received by local housing advocates.

Thanks for visiting our site; I hope you find all the information useful. Please don't hesitate to contact our department for any additional information.

-Brad Whaley
Director

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Sussex County
Planning & Zoning Commission

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BRAD D. WHALEY
DIRECTOR

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Sussex County

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GEORGETOWN, DELAWARE 19947

BRANDY BENNETT NAUMAN
HOUSING COORDINATOR &
FAIR HOUSING COMPLIANCE OFFICER

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Sussex County
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Exhibit 6

MICHAEL P. MORTON, P.A.
ATTORNEY AT LAW

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WILMINGTON, DELAWARE 19801
Telephone: (302) 426-1313
Fax: (302) 426-1300
email: MPMPA@aol.com

Member DE & PA Bars

December 26, 2012

Mr. Todd Lawson
County Administrator
Sussex County
C/O Stephanie L. Hansen, Esquire
Young, Conaway, Stargatt & Taylor, LLP
Rodney Square
1000 North King Street
Wilmington, DE 19801

Re: Qualifications for my retention as the qualified third party to complete the training requirements.

Dear Mr. Lawson,

I am writing in response to your legal counsel's request for some background information on my qualifications to be retained by County Council, subject to approval by the Housing and Civil Enforcement Section of the Civil Rights Division of the United States Department of Justice, for the purpose of completing certain training required by the Consent Decree entered or about to be entered by the United States District Court for the District of Delaware. I have previously provided my professional resume for your consideration.

I will start with my background working with the Court which handled this matter. I was privileged to serve as Judge Jane Roth's first judicial law clerk when she ascended to the Federal District Court for the District of Delaware. Over the intervening years I have handled a number of cases in that court, including several where I was appointed by the Court to handle cases for indigent plaintiffs. I handled what I believe was the first Aids rights case for a prisoner in the late 1980's. His claim was that the State Prison system was discriminating against him for in prison work, which prevented him from accruing good time, because of his sexual preference and because of a fear of Aids. The resolution of the case required the State of Delaware to train all prison personnel on Aids and the fair assignment of in prison work assignments. Prior to that judicial clerkship you will note that I served two other President Judges of State trial courts.

Since the late 1980's I have been repeatedly called upon by the legislature and the Courts to assist in the drafting of legislation and Court rules. I served as chairperson of two (2) legislatively created committees for the complete redrafting of key legislation on the Residential Landlord Tenant Code (Chapter 51-57 of Title 25) and the Manufactured Home Owners and Community Owners Act (Chapter 70-71 of Title 25). I represented the Bar Association on both of those committees. The State Supreme Court has called upon me to twice to serve on issues of consequence. A number of years ago, I served as a member of a special committee of the Delaware Supreme Court that was responsible for recommending both a Supreme Court Rule and a Rule of Civil Procedure on the

representation of artificial entities in the Justice of the Peace Court. More recently, I was appointed by the Chief Justice to serve as a member of the "Fairness for All", task force. That task force was impaneled to study the perceptions of the public of the fairness of all Delaware Courts. All the members, except me and one other attorney, were current members of the Delaware Judiciary. I also was appointed by New Castle County Council to serve as a member of the New Castle County Rental Housing Advisory Committee, where I served for more than 5 years.

I have been actively training lawyers, judges, real estate professionals, DSHA employees, and others on housing issues for more than 20 years. Each year I train the Justice of the Peace Court Judges on the application of various statutory provisions including the state fair housing provisions found in the Residential Landlord Tenant Code. I have taught dozens of continuing education seminars for the New Castle County Board of Realtors, the Kent County Board of Realtors, and the Sussex County Board of Realtors. I have also taught at the State wide annual Realtors convention on several subjects. As is indicated on my resume, I am certified to teach nearly every category of courses for the Real Estate Commission, including Fair Housing and the Fair Housing Act. I have taught many continuing education seminars for attorneys on various subjects.

My experience is this area of the law is not however, limited to teaching. I have handled nearly 100 cases before the State of Delaware's Human Relations Commission, during which various unfair housing violations were alleged. I am very familiar with the Fair Housing Act and all of the claims that can be brought under the Act <u>or</u> the Delaware version of the Act. I have handled many different types of cases under the Act. You have my consent to ask any of the investigators at Human Relations for a professional recommendation for the quality of my work and my knowledge in this area of the law. I have spoken on several occasions at the request of the Human Relations Commission, at the annual State Housing Conference, hosted by DSHA.

By this letter I am confirming that I am a qualified third party not connected in any way to the defendants or their officers, elected or appointed officials, employees, agents or counsel.

I have forwarded a copy of my proposed outline for the training to your counsel. Please let me know if there is anything else I can provide or any questions I can answer on my qualifications. I am available to timely complete this required training.

Sincerely,

Michael P. Morton
Michael P. Morton P.A.

PROPOSED OUTLINE

SUSSEX COUNTY COMPLIANCE TRAINING ON THE REQUIREMENTS OF THE CONSENT DECREE AND THE FAIR HOUSING ACT.[1][2]

Introduction

The overall purpose of the training is to:

A. Familiarize each of those required to attend[3] with the existence, content and requirements of the Consent Decree between Sussex County and the U.S. Department of Justice[4]; and

B. Train Attendees on how to comply with the requirements of the Consent Decree; and

C. Train Attendees on the requirements of the Fair Housing Act, Title VIII of the Civil Rights Act of 1968, as amended (the "Fair Housing Act" or "FHA") ; and

D. Train Attendees on how to comply with the requirements of FHA; and

E. Provide training consistent with paragraphs A-D above, for newly elected, appointed or hired individuals covered by the Consent Decree within thirty (30) days after he or she enters office or commences service or employment.[5]

---

[1] This training is required by the Consent Decree between the United States Department of Justice and Sussex County (Civil Action No. 12-1591-MPT) and the Voluntary Compliance Agreement between the United States Department of Housing and Urban Development and Sussex County.

[2] This Outline is being submitted for approval to Counsel for the United States Department Justice pursuant to the Consent Decree, Section VI, paragraph 21 (a-c) and pursuant to the Voluntary Compliance Agreement, Section III, paragraph 1.

[3] "Attendees" are all County Officers, elected and appointed officials, or employees who have duties related to the planning, zoning, permitting, construction, or occupancy of residential housing, included 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.

[4] Each Attendee must execute a certification that they attended the training, that they received a copy of the Consent Decree and that they understood the Consent Decree (Consent Decree, paragraph 23).

[5] The training shall be video recorded and copies of that recording shall be maintained as well as the written materials used for each training.

A. **<u>What are the requirements of the Consent Decree and how do those requirements apply to those covered by the Consent Decree?</u>**

1. The defendants, their employees, elected or appointed officials, officers, agents, and all other persons or entities acting in concert or participation with them[6] are enjoined from:

   i. Review and explain the requirements of Paragraph 8 (a) of the decree;
   ii. Review and explain the requirements of Paragraph 8 (b) of the decree;
   iii. Review and explain the requirements of Paragraph 8 (c) of the decree;
   iv. Review and explain the requirements of Paragraph 8 (d) of the decree;
   v. Review and explain the requirements of Paragraph 9 as it applies to Diamond State CLT, or any entities owned or associated with Diamond State CLT.

2. The Planning and Zoning Commission is required to reconsider the application by Diamond State CLT according to procedures set forth in Paragraph 10 of the Decree.

   i. Review and explain the requirements of paragraph 10 (a);
   ii. Review and explain the requirements of paragraph 10 (b);
   iii. Review and explain the requirements of paragraph 10 (c);
   iv. Review and explain the requirement of paragraph 10 (d) and its subparts (i-iv);
   v. Review and explain the requirement of paragraph 10(e).

3. The County is required to fully cooperate in good faith with Diamond State CLT to facilitate funding, development, and construction processes for New Horizons in very specific ways.

   i. Review and explain the requirements of paragraph 11(a);
   ii. Review and explain the requirements of paragraph 11(b);
   iii. Review and explain the requirements of paragraph 11(c);
   iv. Review and explain the requirements of paragraph 11(d);
   v. Review and explain the requirements of paragraph 11(e).

4. If Planning and Zoning declines, rejects or denies any type of request of application for zoning or land use approval relating to an Affordable Housing proposal, or a proposal processed under the Moderately Priced Housing Unit Program or the Sussex County

[6] See footnote 3 above for a comprehensive list of those covered by the Consent Decree.

Rental Program, or if the Sussex County Council affirms any such decision then that entity shall:

i. Prepare detailed finding pursuant to paragraph 12 of the Consent decree;
ii. Provide a copy of the written finding to the person or persons making the request of application within ten (10) days of the decision.

5. The County is required to undertake an Affordable and Fair Housing Marketing Plan for the purposes set forth in paragraph 13;
   i. Review and explain the requirements of paragraph 13(a) and its subparts;
   ii. Review and explain the requirements of paragraph 13(b);
   iii. Review and explain the requirements of paragraph 13(c);
   iv. Review and explain the requirements of paragraph 13(d).
6. The County must appoint and maintain a Fair Housing Compliance Officer ("FHCO") who must comply with certain enumerated requirements on behalf of the county;
   i. Review and explain the requirements of Paragraph 14-18 of Consent decree, as they apply to the FHCO.
7. The County must adopt a written Fair Housing Policy;
   i. Review and explain what it must contain;
   ii. Review and explain the timing requirements;
   iii. Review and explain where and how it must be distributed;
   iv. Review and explain the Use of the Fair Housing logo.
8. Training requirements pursuant to the Consent Decree. The who, what and when of training;
   i. Review and explain the requirements of paragraph 21(a);
   ii. Review and explain the requirements of paragraph 21(b);
   iii. Review and explain the requirements of paragraph 21(c);
   iv. Review and explain the requirements of paragraph 22;
   v. Review and explain the requirements of paragraph 23, including but not limited to the individuals certification of comprehension of the Decree.
9. Reporting and Record Keeping requirements.
   i. Review and explain the reporting and records keeping requirements contained in paragraph 24 (a-c);
   ii. Review and explain the reporting and records keeping requirements as contained in paragraph 25 (a-d);
   iii. Review and explain the reporting and records keeping requirements as contained in paragraph 26.

10. The County shall develop an Affordable Housing webpage consistent with certain requirements:
   i. Review and explain the website posting requirements contained in Paragraph 27 (a-f).

11. The County shall provide DOJ with a copy of any proposed changes to:
    i. 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
    ii. A link to the proposed change on the County's Affordable Housing Webpage;
    iii. Prior to the consideration of the proposed change by Defendants.
    iv. Review and explain the requirements of paragraph 28.
12. Compensation paid to aggrieved individuals.
13. Jurisdiction, scope and duration of the Consent Decree.
    i. In effect for four (4) years after entry;
    ii. Court could extend the duration upon request;
    iii. Federal Court retains jurisdiction to enforce provisions of the Consent decree.

B. **<u>The Fair Housing Act, Title VIII of the Civil Rights Act of 1968</u>, as amended (42 U.S.C. §§ 3601-3619).** A complete review of the Fair Housing Act, with relevant application to the activities of the County and its offices and officials. Case law will be presented as well as hypothetical situations based upon prior enforcement actions under various provisions.

1. §3602 Definitions under the Act.
2. §3602 (i) Aggrieved person.
3. §3603 Effective dates of certain prohibitions
4. §3604 (a) Discrimination in sale or rental of housing and other prohibited practices.
5. §3604 interfered with persons in the exercise or enjoyment of rights granted by FHA.
6. §3605 Discrimination in Residential Real Estate-Related Transactions
7. §3606 Discrimination in provision of brokerage services
8. §3607 Religious organization or Private club exemption
9. §3608 Administration, Authority and Responsibility, Collection of certain data.
10. §3609 Education and conciliation; conferences and consultations; reports
11. §3610 Administrative Enforcement
12. §3611 Subpoenas; Giving of Evidence
13. §3612 Enforcement by Secretary
14. §3613 Enforcement by Private Persons
15. §3614 Enforcement by the Attorney General

16. §3614 (a) Denial to a group of persons of rights granted by the FHA, which denial raises an issue of general public importance.
17. §3614 (b) a discriminatory housing practice.
18. §3614 (d)(1)(B) aggrieved person.
19. §3614 A, Incentives for Self-Testing and Self-Correction
20. §3615 Effect on State laws
21. §3616 Cooperation with State and local agencies administering fair housing laws; utilization of services and personnel; reimbursement; written agreements; publication in Federal Register
22. §3617 Interference, coercion, or intimidation; enforcement by civil action.
23. §3631 Violations; bodily injury; death; penalties.

C. Disparate Impact under the Fair Housing Act;

A review of the case law development of the application of the disparate impact upon cases brought under the FHA. Comments are due by January 17, 2012 on HUD's proposed Rule on the Implementation of the Fair Housing Act, Discriminatory Effects Standard. It is therefore appropriate to discuss the potential impact of this standard on Sussex County.

i. Court Decisions Endorsing Impact Standard in FHA Cases;
ii. Congress Endorsed the Application of the FHA to Impact Claims in the Fair Housing Amendments Act of 1988;
iii. Same Standards Apply to Private and Public Defendants in Impact Cases;
iv. Examples of Impact-Producing Practices that Might Violate the FHA.

MICHAEL PHILLIP MORTON

1203 North Orange Street
Wilmington, Delaware 19801
(302)-426-1313

LEGAL EDUCATION

The Delaware Law School
of Widener University
Wilmington, Delaware

Juris Doctor 1985

Academic Standing: *Top 10%*
Honors:

Grades: *Criminal Law, Contracts, Labor Law, Research on Assigned Subjects I & II*
Alternative Dispute Resolution

Awards: *Judge J. Cullen Ganey Award for the highest average in Criminal Law;*
Two year Academic Scholarship; American Jurisprudence Award Labor Law;
Delaware Law School Outstanding Service Award for Advancement of
the Law School.

Activities: *Delaware Journal of Corporate Law (Staff); Delaware Law Forum (Staff);*
National Chairperson, American Bar Association, Law Student Division;
Law Student Representative to Executive Council, Young Lawyers
Division, American Bar Association.

Other: *Who's Who Among American Law Schools;*
Who's Who Among Students in American Universities and Colleges;
Who's Who in America; Who's Who in American Law;
Outstanding Young Men of America.

Bar Admissions: *Delaware and Pennsylvania (1986);*
United States District Court for the District of Delaware;
The United States Court of Appeals for the Third Circuit;
The United States Supreme Court.

PRE-LEGAL EDUCATION

West Chester University
West Chester, Pennsylvania
M.S. Candidate Public Administration
G.P.A 4.0

West Chester State College
West Chester, Pennsylvania
Political Science/ Public
Administration
B.A. May 1979

LEGAL EXPERIENCE

Law Firms

Owner: ***Michael P. Morton, P.A.**, Wilmington, Delaware 1994 to present. Sole shareholder in the firm, with affiliated offices in West Chester, Pennsylvania. The firm has a broad based Civil Trial and Appellate litigation practice in all State and Federal Courts. The firm's practice includes commercial law, bankruptcy and real estate based contracts. We also practice in the areas of corporate formation, limited partnership, insurance coverage litigation. The firm is engaged in a wide spectrum of bankruptcy litigation. We continue to represent a number of creditors in most of the large cases filed in U.S. Bankruptcy Court in Delaware. A representative client list is available upon request. The firm served as General Counsel for the Delaware Apartment Association and for the State-wide First State Manufactured Housing Institute.*

Associate: ***McCarter & English**, Wilmington, Delaware, 1989 to 1994. Commercial litigation and general business representation. Primary emphasis was on offering broad spectrum of legal services, including but not limited to corporate law, partnerships, insurance coverage, bankruptcy/creditors' rights, land use, and legislative impact advice. Served as local counsel in a panoply of cases involving, trade secret litigation, health care facilities, shareholder derivative matters, transfer of judgments, collection and discovery matters for both State and Federal cases from other jurisdictions.*

Associate: ***Young, Conaway, Stargatt & Taylor**, Wilmington, Delaware, 1986-1989.*

Judicial Clerkships

Honorable Jane R. Roth, United States District Court, District of Delaware 1985-1986. Assisted in the research and drafting of opinions, attended all trials.

Honorable John Stively, President Judge, Court of Common Pleas of Chester County, West Chester, Pennsylvania, 1984. Attend trials, research and drafting of opinions.

Honorable D.T. Marrone, President Judge, Court of Common Pleas of Chester County, West Chester, Pennsylvania, 1983-1984. Attend trials, research and drafting of opinions.

Service to the Bar and Public Service

***Vice Chairperson, New Castle County Rental Housing Advisory Committee.** Served as Vice Chairperson and member of this advisory committee from its inception to present. Assisted in drafting of revisions to the New Castle County Rental Housing Code. Oversaw the implementation of the first county rental Code. 2005-present*

***Board Member, First State Manufacture Housing Association.** Founding member of this organization, Currently serving second 2 year term as a member of the board.1999 to present.*

***Chairperson, Mobile Home Study Committee.** Served as Chairperson and as the representative of Bar Association Section of Real Property on this 19 member, legislatively created committee to review and revise all sections of the Delaware Code relating to manufactured housing, including but not limited to the Landlord Tenant Code. Committee drafted comprehensive suggestions for revisions to the existing Code which were delivered to the Legislature. 1993-98.*
***Co-Chairperson, Residential Landlord Tenant Code Review Committee.** Served for several years as representative from the Bar Association, Section of Real Property, to this legislatively created committee to review and revise the existing Landlord Tenant Code. At the completion of the committee's work it drafted comprehensive legislation for presentation to the Legislature, completely revamping the structure and procedure of the Residential Landlord Tenant Code. Sole representative of the committee to testify before the Delaware Senate on content and merits of the legislation. The new Code was adopted by both houses of the legislature and signed by the Governor in 1996. 1989-1996*

Member, special committee created by the Delaware Supreme Court to review issues of representation of artificial entities before the Justice of the Peace Court. The committee recommended and the Supreme Court adopted a new Civil Rule 57 which provides for representation of defined artificial entities in the Justice of the Peace Court. 1998-1999

New Jersey and Delaware Representative to the Executive Council of the Young Lawyers Division of the American Bar Association. 1989-1991

Young Lawyers Division Liaison to Section for Legal Education and Admission to the Bar, Council 1990-1992.

General Counsel, Member Board of Directors, Habitat for Humanity of New Castle County, 1989-1992.

General Counsel for Priority One Foundation, a non-profit, non-denominational Christian outreach organization. 1995 to present.

General Counsel for Friendship Ministries Foundation, a non-profit, non-denominational Christian outreach organization. 1995 to present.

Special Counsel for Delaware AIDS Consortium on housing issues. 2000 to present.

Outside Counsel for Management Associates Inc., a non-profit housing provider in New Castle County Delaware. 2000 to present.

Certifications

Real Estate Certified Real Estate Instructor, certified to teach in the following subject matters:
New Licensee Module 4, Modules 1,2,3,5,6,7 which includes but is not limited to: Federal, State or Local Legislative Issues; Agency; Fair Housing Law; Real Estate Ethics; Professionalism Standards; Disclosure; Real Estate Documents; Professional Enhancement for Practicing Licensees; Real Estate Sales; Real Estate Law; Legal and Governmental Aspects of Real Estate; Contemporary Issues or other Real Estate related matters. Approval # 101231.
Fair Housing issues including but not limited to: Civil Rights Act of 1866;Fair Housing Act of 1968; Federal Protected classes, Delaware Protected Classes; ADA; Steering; Block busting; Redlining; HOPA (Housing for Older Persons Act)

Contact information:

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CANNON BUILDING
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STATE OF DELAWARE
DEPARTMENT OF STATE
DIVISION OF PROFESSIONAL REGULATION

TELEPHONE: (302) 744-4500
FAX: (302) 739-2711
WEBSITE: WWW.DPR.DELAWARE.GOV

October 11, 2012

Michael Morton
1203 North Orange Street
Wilmington, DE 19801

RE: INSTRUCTOR APPROVAL # 101231

This notice is to inform you that the Education Committee reviewed and the Delaware Real Estate Commission subsequently approved your Real Estate Instructor's Application subject to any restrictions as noted. Your instructor approval number is shown above.

You are certified to teach the following subject areas only:

Continuing Education:	New Licensee Module 4
	Modules: 1, 2, 3, 5, 6, 7
Prelicensing Course:	Real Estate Law
Broker's Course:	Ethics, Legal & Governmental Aspects of Real Estate

Restrictions if any:

This certification is valid for a period of two (2) calendar years, expiring October 31, 2014. In order to be certified beyond this date you are required to reapply by presenting a new application and resume before conducting any further courses or programs. You may go to www.dpr.delaware.gov to obtain the Education Guidelines and the necessary paper work to re-apply for Instructor approval.

Please be advised that it is your responsibility to provide this information to the course provider who wishes to use your services. If you should have any questions, please feel free to call 302-744-4500 or e-mail customerservice.dpr@state.de.us.

Sincerely,

Delaware Real Estate Commission

*******THIS INFORMATION MUST BE RETAINED IN YOUR FILE*******
Please safeguard this notice. You must pay a fee for a replacement.

CANNON BUILDING
861 SILVER LAKE BLVD., SUITE 203
DOVER, DELAWARE 19904-2467

STATE OF DELAWARE
DEPARTMENT OF STATE
DIVISION OF PROFESSIONAL REGULATION
REAL ESTATE COMMISSION
REAL ESTATE EDUCATION COMMITTEE

TELEPHONE: (302) 744-4500
FAX: (302) 739-2711
WEBSITE: DPR.DELAWARE.GOV
EMAIL: customerservice.dpr@state.de.us

Real Estate Continuing Education

Module Course Contents

During each licensure renewal period, licensees must complete 21 hours of continuing education (CE) in seven required modules. Each module must be three hours in length. This document summarizes the suggested course content for each required module. While all material on the outline should be covered, the instructor is allowed flexibility in regard to how much time he or she needs to cover each topic completely.

Before teaching the course, submit course outlines to the Education Committee and Commission for review and approval using the *Application for Approval of Real Estate Educational Course*. The Education Committee will use these guidelines to evaluate courses submitted for review and approval.

For more information, see Section 13.0 of the Real Estate Commission's Rules and Regulations.

Core Module 1 – Agency and Fair Housing – 3 hours

Agency

Pre-House Bill 122 – Yesterday

House Bill 122 – Today

Definitions
- Ministerial Task
- Statutory Agency
- Brokerage Organization

CIS – *It's the LAW!*
- Presentation Requirements
  - Open House
  - New Construction
  - Signature
- Confidentiality
  - Sex Offender Disclosure
- Dual Agency
- Common Law Agency
- Obligations/Required Duties
- Imputed Knowledge
- Vicarious Liability (Broker Remains Vicariously Liable for Their Agents)
- Notice
- Actions Permitted
- Duties of Cooperation
- Record Keeping
- Commencement and Termination of Agency

Written Review

Break

Fair Housing

Civil Rights Act of 1866

Fair Housing Act of 1968

Federal Protected Classes

Delaware Protected Classes

Article 10-Code of Ethics

Americans with Disabilities Act

Steering

Blockbusting

Redlining

Megan's Law

Equal Service Report Form

Complaint Process

Staying Out of Trouble

Case Histories

Advertising
- Posters
- No Preference
- Discouraged Wording

Exemptions

Assistance Animals

HOPA (Housing for Older Persons Act)

Written Review

Core Module 2 – Professional Standards – 3 hours

Course may cover such topics as, but not limited to: arbitration, procuring cause, mediation etc.

Ethical Real Estate Practices

Professional Standard Issues

Case Studies

Complaint Process

Sanctions or Monetary Awards

Questions and Answers

Written Review

Core Module 3 – Real Estate Documents – 3 hours

Sales/Lease Contracts

- Elements of a Contract
- Explanation of Paragraphs
- Breach of Contract
- Remedies of Law for Buyers/Tenants
- Remedies of Law for Sellers/Landlords
- Photocopy of Check
- Ratification
- Unauthorized Practice of Law

Break

Listing/Employment Agreements

- Elements of Agreement
- Explanation of Paragraphs
- Multiple Offers Permission
- Valuation & Blogging Permission
- Termination of Listing

Written Review

~~Core Module 4 – Office Management – 3 hours~~

Definition & Responsibilities of Broker

- Section 2977
- Definition of Broker of Record
- Escrow Accounts
- Set Up of Office
- Signage & Advertising
- Maintenance of Records
- Overseeing of Agents
- Overseeing of Contracts (Listing and Sales)
- Multiple Offers
- Key Policy
- Teams/Agent Assistants

Break

Risk Reduction for the Broker

- Do Not Call List
- Do Not Fax Rules
- Anti-Trust Compliance
- MLS Compliance
- Fair Housing Compliance
- Ethics Compliance
- DREC Compliance (Rules and Regulations)
- Agency & CIS Compliance
- Procuring Cause
- RESPA Compliance
- Controlled Business Arrangements
- Social Media Liability
- Internet Advertising

Forms & Other Issues
- State Required Forms
- Independent Contractor Agreements
- Continuing Education Requirements
- Policy & Procedure Manuals
- License Renewal Requirements

Written Review

Core Module 5 – Legislative Issues – 3 hours

The business of real estate is constantly impacted by new laws, regulations and real estate-related issues. This module is designed to ensure that real estate licensees understand how these factors impact their businesses and that they are fully compliant with new law and regulations. For example, possible topics in this module may include, but are not limited to, any of the following:

- Federal and State legislative Issues
- Disclosures
- Local Issues
- DREC Seminar
- Tax Ditches
- BPO

The courses in this module will require specific content approval on a case-by-case basis when submitted for CE credit approval. However, each course presented in this module must meet the following criteria:

Identification of Issues

Review of Impact on Real Estate Professionals

Requirements for Compliance

Written Review

Questions and Answers

Core Module 6 – Practices of Real Estate – 3 hours

Each licensee must complete a course in the area of commercial real estate, residential rentals, and property management in real estate. The course must cover the following:

Commercial CIS

Commercial Sales

Commercial Leasing

Risk Management

Land Use Issues
- Comprehensive Plan
- Zoning and Planning Classifications
  - Variances
  - Conditional Use

Commercial Tax Issues

Residential Rental CIS

Long Term Rentals
- Landlord Tenant Code

Short Term Rentals

- Landlord Tenant Code Exemption
- Damage Deposits
- Key Lease Provisions
- Landlord & Tenant Services

Property Management

- Responsibilities
- Licensure Issues
- Financial Accountability
- Risk Management

Ordinances and Statutes

Identification of Issues

Review of Impact on Real Estate Practitioners

Requirements for Compliance

Written Review

Questions and Answers

Module 7 – Electives – 3 hours

Elective courses may address topics from the other modules, contemporary issues or other real estate-related matters. The courses in this module will require specific content approval on a case-by-case basis when submitted for CE credit approval. However, each course presented in this module must include:

Written Review

Questions and Answers