

# PREDETERMINATION SETTLEMENT AGREEMENT

CP# 08-17-70866  
HUD# 07-17-7447-8

## PARTIES TO THE SETTLEMENT AGREEMENT:

### RESPONDENTS

#### **JACKSON CROSSING, LLC**

215 East 3<sup>rd</sup> Street, Suite 300  
Des Moines, Iowa 50309-9610

#### **SOUTH UNION CORNER, LLC**

3424 EP True Parkway  
West Des Moines, Iowa 50265-7680

#### **ESTES COMPANY, LLC**

P.O. Box 3608  
Davenport, Iowa 52808-3608

#### **INVISION ARCHITECTURE, LTD.**

303 Watson Powell Junior Way, Suite 200  
Davenport, Iowa 50309-1724

### COMPLAINANT

#### **ANGELA JACKSON, COMMISSIONER**

Iowa Civil Rights Commission  
400 East 14<sup>th</sup> Street, Room 201  
Des Moines, Iowa 50319-0201

and

#### **IOWA CIVIL RIGHTS COMMISSION**

400 East 14<sup>th</sup> Street, Room 201  
Des Moines, Iowa 50319-0201

#### Complainant's Allegations:

Complainant is a member of the Iowa Civil Rights Commission (ICRC). As a member, Complainant has the authority to file a complaint alleging a discriminatory practice in violation of the "Iowa Civil Rights Act of 1965," Iowa Code Chapter 216. Complainant alleged Respondents designed and constructed covered multifamily dwellings in violation of the design and construction accessibility requirements of the Iowa Civil Rights Act (ICRA) and the federal Fair Housing Act (FHA). Complainant alleged Respondents violated the violated the "accessible and usable public and common use areas," the "accessible route into and through

the covered unit,” and the “light switches, electrical outlets, thermostats, and other environmental controls in accessible locations.”<sup>1</sup>

Complainant specifically alleged, in Units B110 and A123, 100 Jackson Avenue, Jackson Crossing, two features in the common areas and three features within one of the covered units appeared inaccessible to a person utilizing a wheelchair for mobility – (1) the heights of the midlines of the keyholes at the top three rows of mailboxes at the kiosks for Building A were measured at 55 ¼” (third to top row), 58” (second to top row), and 61 ½” (top row); and at the kiosks for Building B, the heights were measured at 55 ¼”(second to the top row) and at 58” (top row) – all of which are higher than the 54”-maximum allowed for a parallel approach by persons using a wheelchair; (2) the height of the interior threshold at the sliding glass doorway in Unit B110 was measured at 1 ½”, which exceeds the ¾”-maximum allowed for interior thresholds at sliding glass doorways if there is 1:2 beveling present; and (3) the heights of the thermostat top controls were measured at 49 1/16” in Unit B110 and at 48 13/16” in Unit A123, which is more than the allowed maximum height of 48”.

## Description of the Subject Property

### Subject Property

Jackson Crossing consists of three buildings. Buildings A and B are located at 100 Jackson Avenue, and Building C is located at 4 Jackson Avenue.<sup>2</sup> All of the residential buildings and common areas will be required to meet the same accessibility requirements of the ICRA and FHA. Each of the buildings was issued a Certificate of Occupancy, signed by Cody Christensen, Building Official for the City of Des Moines. The certificate for Building A was issued on November 30, 2016; for Building B on April 17, 2017; and for Building C on June 30, 2017.

The scope of the current agreement includes all dwelling units in all three residential buildings; and the public and common use areas, including leasing office, exterior parking spaces adjacent to the leasing office, sidewalks, elevators, hallways, the dog park, dog/bike washing station, bike storage area, fitness center, community room, community grills, dumpsters, and the mailbox kiosks adjacent to each building.

The dwelling units at Jackson Crossing consist of 22 floor-plan types, some of which have been grouped by Respondents based on their floor-plan configurations.<sup>3</sup> Respondents’ reorganization of the floor-plan types has resulted in 14 separate types or groups of units.<sup>4</sup>

The table on the next page lists either the individual unit type or the unit types grouped together. It also provides the total number of units by group and floor level.

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<sup>1</sup> See Iowa Code §§216.8A(3)(c)(3)(a) [Requirement 2 – Accessible and Usable Public and Common Use Areas]; 216.8A(3)(c)(3)(c)(i) [Requirement 4 – Accessible Route into and Through the Covered Unit]; and 216.8A(3)(c)(3)(c)(ii) [Requirement 5 – Light Switches, Electrical Outlets, Thermostats, and Other Environmental Controls in Accessible Locations].

<sup>2</sup> Burk, Terry. “RE: Request for CO, Building Application, and Building Permit” Message to Emigdio López-Sanders. July. 20, 2017 Email.

<sup>3</sup> See Appendix B for floor plans.

<sup>4</sup> See Appendix B for matrix indicating the configuration of units by floor-plan type, floor, and building.

Unit Type(s)	Inspected Unit Numbers	Total Units Per Type(s)
1A [1BR/1BA]	A123	2
1B, 1B-W, 1C and 1D [1BR/1BA]	C404	120
1E [1BR/1BA]	B416	3
2A [2BR/2BA]	A209	4
2B, 2B-W, 2C, and 2D [2BR/2BA]	C212	64
2E [2BR/2BA]	A413	4
2G [2BR/2BA]	B400	2
2H [2BR/2BA] 3C [3BR/2BA]	C316	2
3A [3BR/2BA]	A212	3
3B [3BR/2BA]	C202	4
3D [3BR/2BA]	C416	1
4A [STUDIO/1BA]	A118	12
4B and 4C [STUDIO/1BA]	B115	4
4D [STUDIO/1BA]	C110	19
	<b>TOTAL</b>	244

Respondents’ Defenses

When asked in the questionnaire what was true or false about the allegations, Respondents answered:

We believe the thermostat mounting height deficiency to be true at the referenced units and will be remedied as set forth above.

We believe the door to the patio threshold height to be false.

We believe the mail compartments being mounted outside of the allowable vertical reach range to be true and will be remedied as set forth above.

Report of Preliminary Findings:

ICRC Investigators inspected 14 units at Jackson Crossing, as well as the public and common use areas in and surrounding the complex. After conducting an onsite inspection of the units listed in the table above, and the public/common use areas, ICRC Investigators found and reported the following deficiencies:

- 1) The public parking area for Jackson Crossing is located to the east of the north end of Building B.<sup>5</sup> This parking area has three parking spaces adjacent to the main entrance of Building B – where the leasing office is located – that has signs designating them as reserved for use by persons with disabilities. Although the two parking spaces furthest away and furthest south of the main entrance to Building B, and the access

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<sup>5</sup> See Appendix B.

aisle that is located between them meet the required ADA dimensions, neither one of these parking spaces had the required signage designating it as “Van-Accessible.”<sup>6</sup>.

In the parking area adjacent to Building C, the access aisles that are shared by the three parking spaces designated as reserved for use by persons with disabilities measure 56 ¾” wide at the south access aisle and 57 ¼” at the north access aisle.<sup>7</sup> The width for these access aisles is less than the 60”-minimum required in the ADAAG sections listed above.

2) The ICRC investigators took 10 slope measurements at Jackson Crossing at the sidewalk paths adjacent to the two access aisles near Building A (“East” and “West” access aisles) and adjacent to the two access aisles near Building C (“North” and “South” access aisles). These paths need to be accessible routes because they are necessary to travel from the accessible parking spaces to the dwelling-unit buildings and from the dwelling-unit buildings to the dumpsters and mailbox kiosks.

SLOPE MEASUREMENT LOCATION		CORRESPONDING PHOTO IN APPENDIX A	RUNNING SLOPE
BUILDING	DISTANCE FROM EXPANSION JOINT		
A	7 feet west from joint at west edge of West access aisle	Photo 2A	8.4%
A	5 feet west from joint at west edge of West access aisle	Photo 2B	7.6%
A	3 feet west from joint at west edge of West access aisle	Photo 2C	7.8%
A	1 foot west from joint at west edge of West access aisle	Photo 2D	7.2%
C <sup>8</sup>	7 feet south from 3 <sup>rd</sup> joint to the north of access aisle	Photo 2F and 2G	6.2%
C	5 feet south from 3 <sup>rd</sup> joint to the north of access aisle	Photos 2H and 2I	6.8%
C	3 feet south from 3 <sup>rd</sup> joint to the north of access aisle	Photo 2J	7.0%
C	1 foot south from 3 <sup>rd</sup> joint to the north of access aisle	Photo 2K	6.3%
C	5 feet south from joint to the south of access aisle	Photo 2L	6.2%
C	3 feet south to from the joint to the south of access aisle	Photo 2M	5.5%

The above-reported slopes at the inspected sections of these sidewalk paths exceed the 5%-maximum running slope established by the Fair Housing Act Design Manual [“Manual”], ANSI 1986, and 2010 ADAAG, rendering these paths inaccessible to persons who utilize wheelchairs for mobility.

<sup>6</sup> See Appendix A, Photo 1A.

<sup>7</sup> See Appendix A, Figures 1A, 1B, 1C, 1D, and 1E.

<sup>8</sup> See Appendix A, Photo 2E for clarification of location of where measurements were taken near Building C.

3) There is sufficient clearance in front of all mailbox kiosks to allow for a parallel approach by persons using a mobility-assistive device such as a wheelchair. The height to the midline of the keyholes at the top two rows of mailboxes measured no less than 54 5/8", which exceed the 54"-maximum allowed for a parallel approach by ANSI 1986, and renders these mailboxes inaccessible.<sup>9</sup>

4) The Guidelines require common access areas, such as touchscreen monitors, to be accessible by tenants who use a wheelchair as a mobility-assistive device.<sup>10</sup> There is enough clearance in front of the touchscreen monitor at the Fitness Center for tenants using wheelchairs to make a parallel approach, which allows for a maximum reach height requirement of 54". The height of the area of the touchscreen monitor that must be accessed to operate it was measured at 67".<sup>11</sup> Therefore, the touchscreen monitor controls are unusable for persons using wheelchairs for mobility, according to the maximum reach parameters of ANSI 1986.

5) The door located at the entrance to men's restroom required 11 pounds of force to open and the door to the women's restroom at the Community Room required 15 pounds.<sup>12</sup> Both are interior-hinged doors that, according to Respondents, are not required to be fire doors, and which required more than 5 pounds of force to open.<sup>13</sup>

The following are the measurements gathered for the force required to open the front doors to the inspected units, which exceeded the 15-pound maximum allowed requirement for fire-rated doors:

UNIT NUMBER	POUNDS OF FORCE REQUIRED TO OPEN DOOR
A118	19
A123	19 <sup>14</sup>
A413	17
C110	18
C416	24

Based on the information collected, the force required to open (1) the door to the common-use bathrooms exceeded the 5-pound maximum limit allowed by ANSI 1986 for interior-hinged doors; and (2) the front door for all the units reported in the table above exceeded the 15-pound maximum allowed by ANSI 1986 and IFC 2012 for exterior-hinged doors. All these doors require too much force to open, which makes them unusable for persons with disabilities who have diminished strength to push or pull.

6) Except for Unit C416, the height of the top control buttons of the thermostats in all inspected units exceeded the 48"-maximum height, with measured heights ranging from 48 1/2" to 49 3/4".<sup>15</sup>

The plans submitted by Respondents included the following instructions and diagrams for the installation of the thermostats:

<sup>9</sup> See Appendix A, Photos 3A and 3B.

<sup>10</sup> See Manual, at page 2.3.

<sup>11</sup> See Appendix A, Photos 4A and 4B.

<sup>12</sup> See Appendix A, Photos 4A and 4B

<sup>13</sup> See Appendix A, Photos 2C and 2D

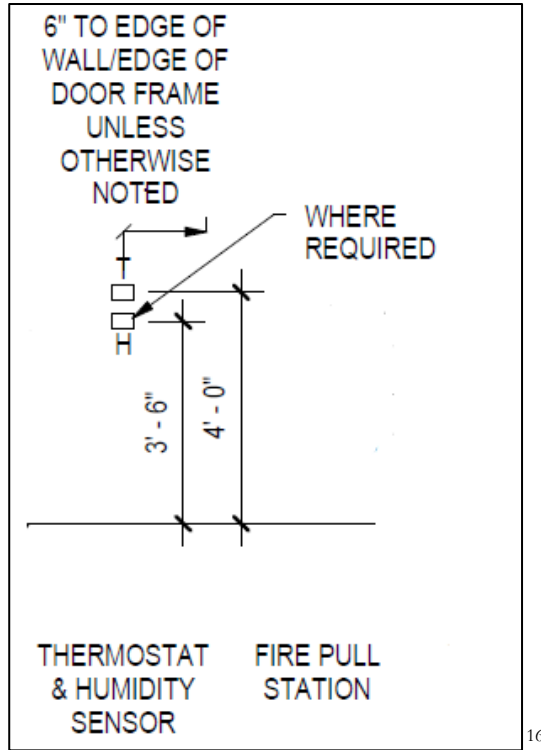
<sup>14</sup> See Appendix A, Photos 5C and 5D.

<sup>15</sup> See Appendix A, Photo 7A.

MISC. FIXTURE/ACCESSORY MOUNTING HEIGHT:

\* \* \* \* \*

THERMOSTATS 48" MAX AFF



The heights of the thermostats in these inspected units would have been compliant with the 48"-maximum height requirement as referenced above if installed according to the plans. But, as built, they are too high, rendering them unusable by persons using wheelchairs.

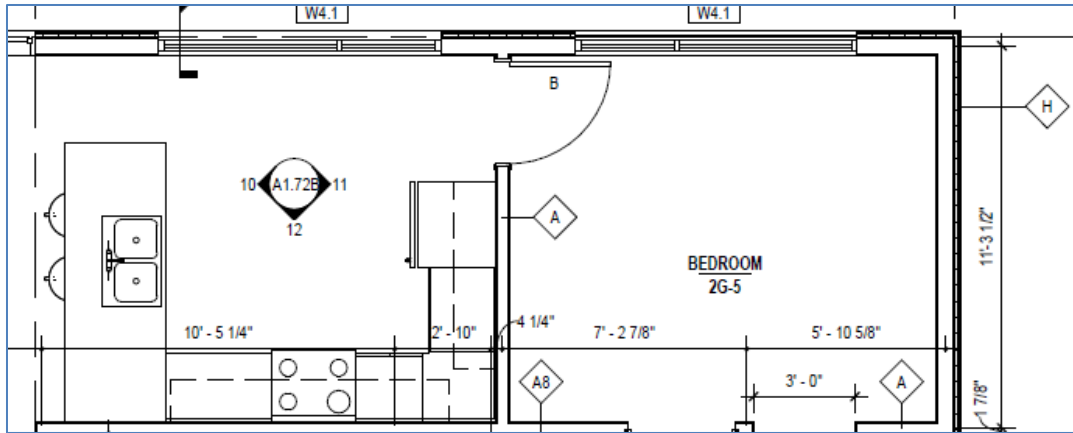
7) Measurements were taken from the midline of the sink to the closest opposing countertop in each of the inspected units to verify compliance with the 24"-minimum required clearance for a parallel approach, which is necessary if the cabinets are not removable. The base cabinets did not appear to be removable to ICRC Investigators, which was verified by Respondents during the inspection.<sup>17</sup>

The plans submitted by Respondents include scaled drawings of the dwelling units. The relevant portion of the drawing for Unit B400 [2G] is shown at top of the next page:<sup>18</sup>

<sup>16</sup> See Appendix B, Sheet Name: "Accessibility Details and Typical Mounting Heights" Sheet G0.07.

<sup>17</sup> See Appendix A, Photo 8A.

<sup>18</sup> See Appendix B.

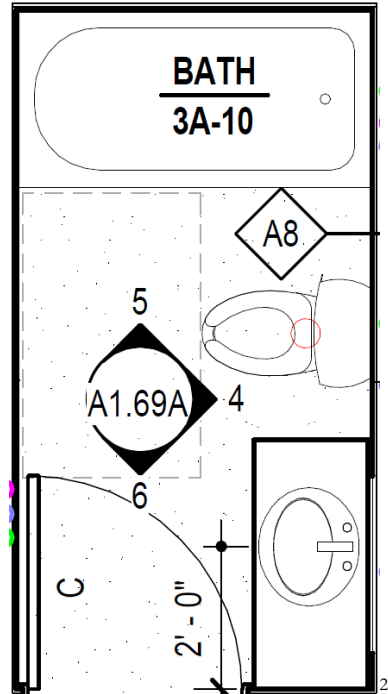
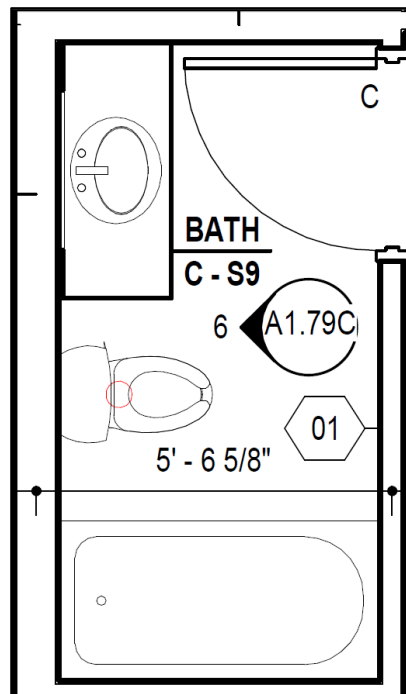


Based on the scaled drawings above, the midline of the kitchen sink at Unit B400 was designed to be about 30” away from the opposing counter. ICRC Investigators measured this distance at 20”.<sup>19</sup> The clearance from the midline of the sink to the opposing counter would have been compliant with the 24”-minimum requirement as referenced above if installed according to the plans. But, as built, the kitchen sink is too close to the opposing counter, rendering it unusable by persons using wheelchairs.

8) The plans submitted by Respondents include scaled drawings of the dwelling units. The relevant portions of the drawings for Units C202 [3B] and A212 [3A] are shown below:<sup>20</sup>

**UNIT C202 [3B]**

**UNIT A212 [3A]**



<sup>19</sup> See Appendix A, Photo 8A.

<sup>20</sup> See Appendix B.

<sup>21</sup> See Appendix B.

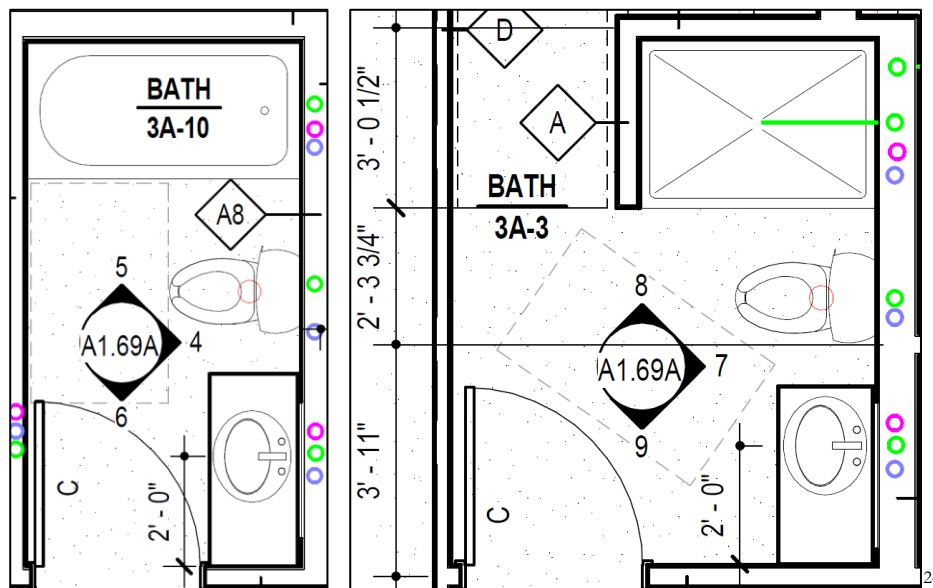
Based on the scaled drawing above for Unit C202, the clear floor space outside the swing of the door in the “CS-9” bathroom was designed to be about 30” by 51”, with the 30” side of the clear floor space being parallel and flush to the bathtub. Based on the scaled drawing for Unit A212, the clear floor space outside the swing of door in the “3A-10” bathroom at Unit A212 was designed to be about 30” by 48”.

The drop cloth was placed with the 30” side flushed against the bathtub in Unit C202. However, in Unit A212, the drop cloth could not be placed on the floor with the 30” side flushed against the bathtub because the toilet bowl overlapped the 48” side of the drop cloth by  $\frac{5}{8}$ ”, as measured by ICRC investigators.<sup>22</sup> As the drop cloth represents the clear floor space required by someone using a standard-size wheelchair, it could only be placed at a location free of encroachment by any of the bathroom fixtures upon this clear floor space. As reported in the next paragraph, the limitation of where the drop cloth could be placed in the bathroom at Unit A212 led to the significantly higher value of the measured distance for overlap of the door on the drop cloth.

In Unit C202, the opened door was found to overlap the 30”-by-48” drop cloth by  $7\frac{1}{4}$ ”, while in Unit A212, the door was found to overlap the drop cloth by  $25\frac{1}{2}$ ”.<sup>23</sup> This means that the clear floor space outside the swing of the door in bathrooms for both units is less than 30”-by-48”.

The clear floor space outside the swing of door in the bathrooms at both units would have been compliant with the 30”-by-48”- minimum clear floor space requirement referenced above if these bathrooms had been built according to the plans. But, as built, the clear floor space outside the swing of door is insufficient, rendering both bathrooms unusable by persons using wheelchairs.

9) The plans submitted by Respondents include scaled drawings of the dwelling units and instructions on installation of toilets. The relevant portions of the drawings for Unit A212 [3A] are shown below:



<sup>22</sup> See Appendix A, Photos 9A and 9B.

<sup>23</sup> See Appendix A, Photos 9C and 9D.

<sup>24</sup> See Appendix B.

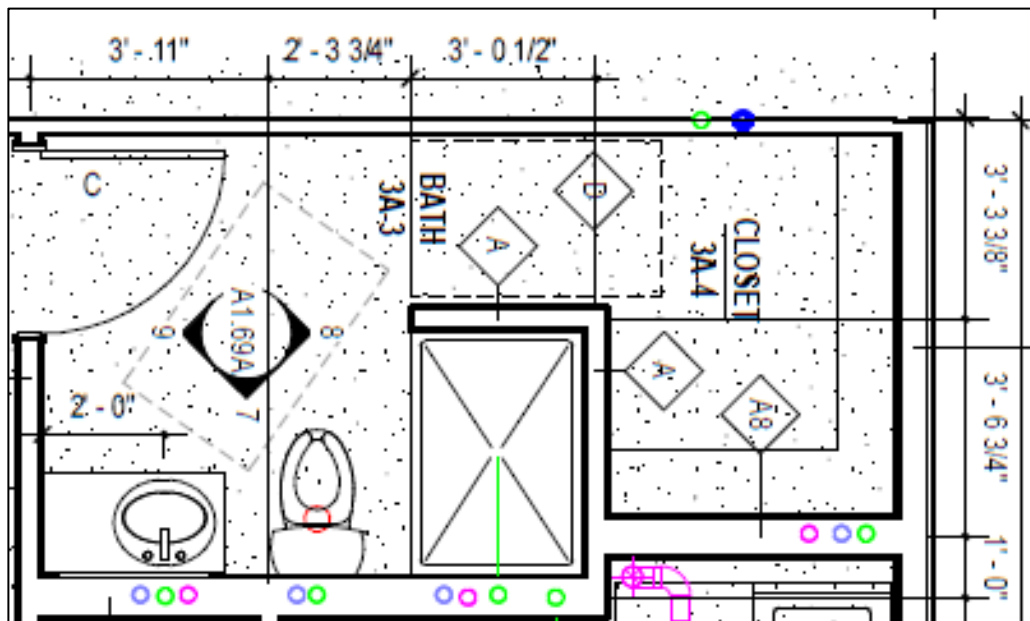


Based on the scaled drawings above, the clear floor space immediately adjacent to the bathing facility (1) in Bathroom “3A-10” was designed to have a clear floor space area measuring 30” by 48”, with the 30” side of the clear floor space being parallel and flush to the bathtub; and (2) in Bathroom “3A-3”, same clear floor space was designed to be 24” by 48”. As reported in the last section, ICRC Investigators measured the distance *from* the edge of the toilet bowl that extends out the furthest from the toilet fixture itself *to* the opposing wall at 29 <sup>3</sup>/<sub>8</sub>”, which prevents persons using a wheelchair from approaching the bathtub due to the width of the path being less than the 30”-minimum width for a stationary wheelchair and less than the 32”-minimum for a moving wheelchair.

The clear floor space at the bathing facility in Bathroom “3A-10” would have been compliant with the 30”-by-48”- minimum clear floor space required at the bathing facility if the bathroom had been built according to the plans. But, as built, the clear floor space at the bathing facility is insufficient in Bathroom “3A-10”. Additionally, as designed and built, Bathroom “3A-3” has insufficient clear floor space at the bathing facility. Therefore, both bathrooms in Unit A212 are unusable by persons using wheelchairs.

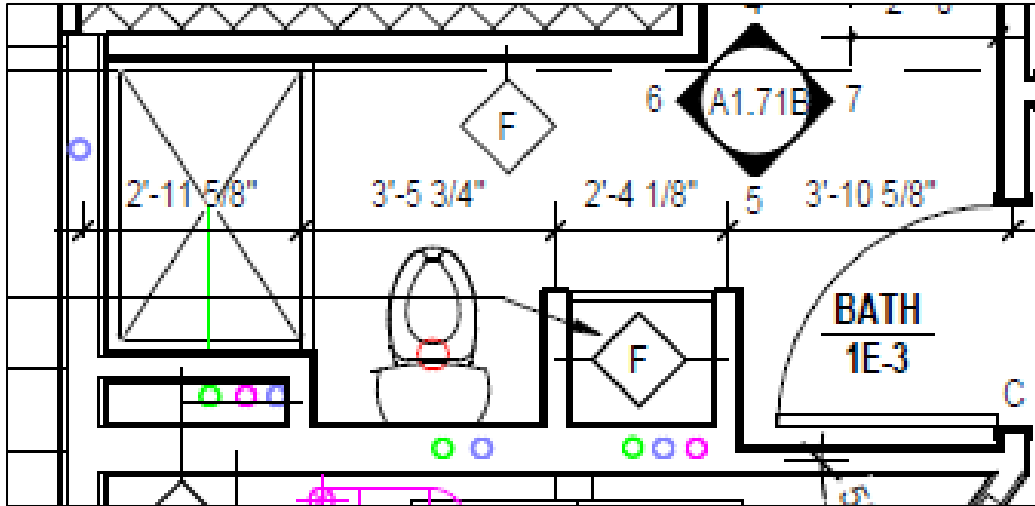
10) The plans submitted by Respondents include scaled drawings of the dwelling units. The relevant portions of the drawing for Units A212 [3A] and B416 [1E] are shown below and at the top of the next page:<sup>25</sup>

**UNIT A212 [3A]**



<sup>25</sup> See Appendix B.

**UNIT B416 [1E]**

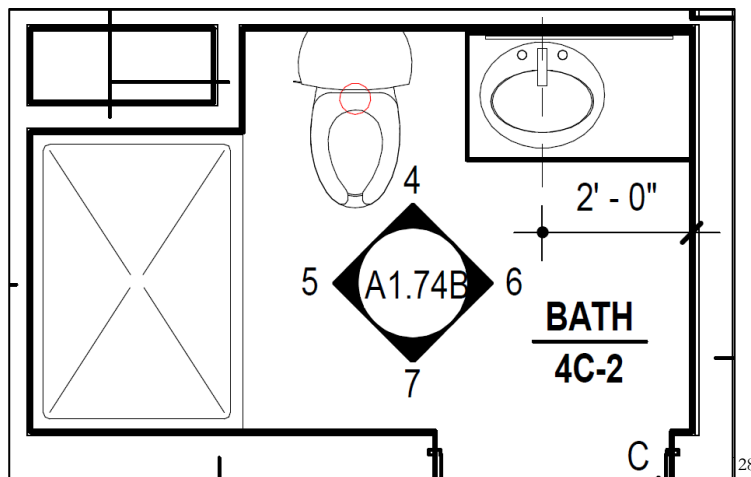


Based on the scaled drawings above, the route connecting the bathroom area with the walk-in closet in Unit A212 was designed to be about 39 1/2" long by 33 3/4" wide. ICRC Investigators measured this route at 39 5/16" long by 33 9/16" wide.<sup>26</sup>

In Unit B416, the route from the area inside the bathroom entrance to the toilet was designed to be about 33 3/4" long by 36" wide. ICRC Investigators measured the length of this route at 36 1/8" long by 34 7/8" wide.<sup>27</sup>

The routes referenced above are too narrow because their measured width is less than 36" minimum required for routes that are longer than 24", which renders the routes in these bathrooms inaccessible for tenants who use wheelchairs.

11) The plans submitted by Respondents include scaled drawings of the dwelling units and instructions on installation of toilets. The relevant portion of the drawing for Unit B115 [4C] are at the top of the next page:



<sup>26</sup> See Appendix A, Photo 6A.

<sup>27</sup> See Appendix A, Photo 6B.

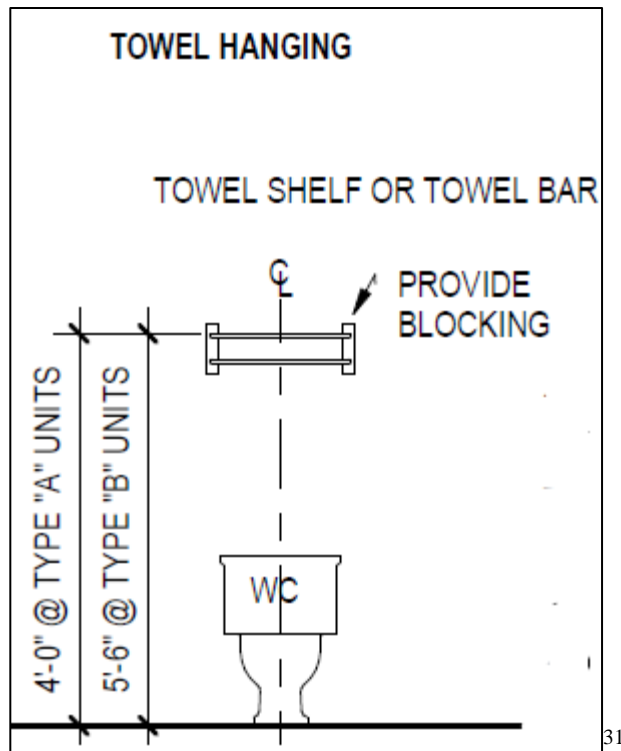
<sup>28</sup> See Appendix B.

Based on the scaled drawing above, midline of the bathroom sink was designed to be 24” away from the wall. ICRC Investigators measured this distance at 18”, which is less than the 24”-minimum required by the Guidelines, when cabinets are not removable.<sup>29</sup> The base cabinets did not appear to be removable to ICRC Investigators, which was verified by Respondents during the inspection. This bathroom is unusable because the midline of the sink is too close to the wall to allow tenants using wheelchairs to make the required parallel approach.

12) Respondents stated during the inspection that all ANSI Type-A units have removable base cabinets under the kitchen and bathroom sinks. In Unit C404 [1B – ANSI Type A], the height to the top of the rim in the Specification-B bathroom was measured at 35 ¾”, which exceeds the 34”-maximum height.<sup>30</sup>

The height of the top of the rim of the bathroom sink in Unit C404 is too high, rendering the bathroom sink unusable by persons using wheelchairs.

13) The plans submitted by Respondents included the following diagrams for the installation of the towel bars:



The height of the bathroom towel bars in in the Units A118, A413, A212, B400, A209, C110, C202, C212, C316, and C404 was measured at no less than 62” and were installed above toilets which have a depth of more than 30”. Therefore, the towel bars will need to be moved to a different wall at a height of no more than 54” if there are no obstructions because the depth of the toilet exceeds the maximum depth for obstructions.

<sup>29</sup> See Appendix A, Photos and 9B.

<sup>30</sup> See Appendix A, Figures 9G and 9H.

<sup>31</sup> See Appendix B, Sheet Name: “Accessibility Details and Typical Mounting Heights” Sheet G0.07.

The heights of the towel bars in these inspected units were not designed or built to be compliant with the maximum height requirements. As built, the towel bars are too high, rendering them unusable by persons using wheelchairs.<sup>32</sup>

Respondents' Response to Report of Preliminary Findings:

Respondents submitted the following responses to the reported deficiencies:

1) Estes Construction will install "Van-Accessible" signs at the required heights for the three ADA required public parking spots located near Building B within 60 days of the date an agreement is executed by the parties.

Estes Construction will re-stripe the parking space lines in the access aisle adjacent to Building C, so the width of the access aisles is a minimum of 60" as measured between the midlines of the access aisle lines within 60 days of the date an agreement is executed by the parties.

2) Estes Construction will re-pour the concrete in the affected areas identified in the chart on page 16 of ICRC's report to ensure the slope measurements do not exceed the permissible running slope of 5% within 90 days of the date an agreement is executed by the parties.

3) Jackson Crossing, LLC will coordinate with the post office to install a new post to lower the mailboxes, so the mailboxes will not exceed the 54"-maximum height, within 60 days of the date an agreement is executed by the parties.

4) Jackson Crossing, LLC will remount and lower the touch screen monitor located in the fitness center, so that it does not exceed the 54"-maximum height, within 60 days of the date an agreement is executed by the parties.

5) Estes Construction will adjust the door closer on the doors located in the common areas in the men's and women's bathrooms, and the Community Rooms, so that door-opening force does not exceed the permissible limits, within 90 days of the date an agreement is executed by the parties.

Estes Construction will make adjustments to the door closer on the doors leading to the dwelling units so that door-opening force does not exceed the 15-lbs. maximum allowed.

6) Estes Construction will lower the thermostats so that the height of the top control buttons of the thermostats in all units do not exceed the 48"-maximum height, within 90 days of the date an agreement is executed by the parties.

7) Invision Architecture, L.T.D. ["Invision"] will arrange for the installation of a solid surface cover at the kitchen sinks of Units B300 and B400 to be mounted over the left side bowl of the double sink to convert it to a single bowl sink, such that the midline of the resulting sink will be approximately 27" from the nearest obstruction to allow for the parallel approach to the sink by persons using wheelchairs, within 90 days of the date an agreement is executed by the parties.

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<sup>32</sup> See Appendix A, Photo 8A.

- 8) Estes Construction will reverse the swing of the door at the bathroom in Units C102, C202, C302 and C402, to allow the bathroom door to swing out into the bedroom and result in the required clear floor space in the bathroom outside the swing of the door, within 90 days of the date an agreement is executed by the parties.
- 9) Invision will replace the toilets in the “C-S9” shared bathrooms in Units A212, A312, and A412 with a new toilet with a non-elongated bowl type toilet – which will protrude approximately 2 ½” less into the bathroom space – to allow for the required clearance of a 30”-by-48” clear floor space outside of the swing of the door, within 90 days of the date an agreement is executed by the parties.<sup>33</sup>
- 10) Invision will remove or modify the shower and surrounding walls in Units A212, A312, and A412, so that the shower is entered from the South rather than from the East, and to increase the width of the passage to the adjacent closet to greater than 36” and provide 30”-by-48” of clear floor space at the shower.
- Estes Construction will cut 1” to 2” off the wall to shorten the shelves present and will then re-install the drywall in that area and patch the floor finish as required in Units B416, B216, and B316. Respondents will complete these retrofits as the units become vacant.
- 11) Estes Construction will replace the countertop and move the midline of the sink 24” from the adjacent wall in unit B115, within 120 days of the date an agreement is executed by the parties.
- 12) Respondents maintain that in Unit C404 – which is an ANSI Type-B unit as indicated in the plans – the height of the sink is 35 ¾”, which is in compliance with the 36”-maximum height requirement for bathroom sinks with non-removable cabinets. None of vanity cabinets under the bathroom sinks of the ANSI Type-B Units are removable, and therefore may be as high as 36” above the finished floor surface.
- 13) Invision will install a towel hook in each unit at a height that will not exceed the permissible height, within 90 days of the date an agreement is executed by the parties.

#### Assessment of Deficiencies:

Respondents stated all units were built in accordance with the scoping requirements of the 2012 International Building Code [IBC 2012], which incorporates the standards of the 2009 American National Standards [ANSI 2009] for guidance on the technical requirements [i.e., the dimension requirements]. Neither the IBC 2012 nor the ANSI 2009 is one of the safe harbors accepted by HUD.<sup>34</sup> Therefore, the Manual and the Guidelines, which incorporate ANSI 1986 for some of the technical requirements, must be used to assess and determine compliance with the ICRA and FHA, not IBC 2012 or ANSI 2009.

The public areas must meet the requirements of the ADA in addition to those of the FHA, as people other than residents or residents’ visitors will visit or frequent those areas. The common use areas, however, such as the dumpsters and the mailbox kiosks, are governed by the FHA since they are only for use by the residents of Jackson Crossing and their guests. The ADA will only be referenced in the current report for the public areas, which include exterior parking spaces, sidewalks, and hallways.<sup>35</sup> Finally, the requirements

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<sup>33</sup> This section of Respondents’ responses also addresses paragraph “11)” from the “Report of Preliminary Findings” section.

<sup>34</sup> <http://www.fairhousingfirst.org/faq/safeharbors.html> (Last visited on March 28, 2014).

<sup>35</sup> The ADAAG defines “Public Use” as “[I]nterior or exterior rooms or spaces that are made available to the general public. Public use may be provided at a building or facility that is privately or publicly owned.” See “Definitions” on page 47 of ADAAG available online at [http://www.ada.gov/regs2010/2010ADASTandards/2010ADASTandards\\_prt.pdf](http://www.ada.gov/regs2010/2010ADASTandards/2010ADASTandards_prt.pdf). Therefore, since the

of the ADA will be presented as stated in the “2010 American with Disabilities Act Standards: 2004 ADAAG for Titles II and III Facilities” (ADAAG). *See* 42 U.S.C. 12204, Part 1191, Appendix A, and 42 U.S.C 12186(b); 28 CFR Part 36, Appendix B.

Following is the assessment of Respondents’ proposed retrofits and determination, based on the scoping and technical requirements of the 2010 ADAAG and the Manual:

1) ICRC concurs with Respondents’ proposal for Estes Construction to install “Van-Accessible” signage at the required height for the accessible parking spaces near Building B. However, ICRC will only require signage at one of the two spaces – which are the two spaces furthest away and south of the main entrance to Building B – within 60 days of the date of the closing letter from ICRC.

ICRC concurs with Respondents’ proposal to re-stripe the parking space lines in the access aisle adjacent to Building C, such that the width of the access aisle is a minimum of 60” as measured from the center line within 60 days from the date of the Closing Letter from ICRC.

2) ICRC concurs with Respondents’ proposal to re-pour the concrete in the affected areas identified in the chart on page 16 of ICRC’s Report of Preliminary Findings – which is also found on page 4 of the current agreement – to ensure the slope measurements do not exceed the 5%-maximum running slope. However, ICRC will require that the proposed retrofit be completed within 60 days of the date of the Closing Letter from ICRC.

3) ICRC concurs with Respondents’ proposal to coordinate with the post office to install a new post to lower the mailboxes, so the mailboxes will not exceed the 54”-maximum allowed height, within 60 days of the date of the Closing Letter from ICRC.

4) ICRC concurs with Respondents’ proposal to remount and lower the touch screen monitor located in the fitness center, such that it does not exceed the 54”-maximum height, within 60 days of the date of the Closing Letter from ICRC.

5) ICRC concurs with Respondents’ proposal to adjust the door closers at the doors located in the men’s and women’s common-area bathrooms, and at the Community Rooms, such that door-opening force does not exceed the 5-lbs maximum. However, ICRC will require that this retrofit be completed within 60 days of the date in Closing Letter from ICRC.

ICRC concurs with Respondents’ proposal to adjust the door closers at the doors located at the front doors of the Units A118, A123, A413, C110, and C416, such that door-opening force does not exceed the 15-lbs. maximum allowed for fire-rated doors. ICRC will require that this retrofit be completed during unit turnover when the unit is unoccupied, and no later than one-year from the date of the Closing Letter from ICRC.

6) ICRC concurs with Respondents’ proposal to lower the thermostats such that the height of the top control buttons of the thermostats in all units do not exceed the 48”-maximum height, within 90 days of the date of the Closing Letter from ICRC.

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hallways and parking spaces are available for use by prospective residents, who are part of the general public, these areas are deemed to be “Public Use.”

- 7) ICRC concurs with Respondents' proposal to arrange for the installation of a solid surface cover at the kitchen sinks of Units B300 and B400 to be mounted over the left side bowl of the double sink to convert it to a single bowl sink, such that the midline of the resulting sink will be no closer than 24" from the nearest obstruction to allow for the parallel approach to the sink by persons using wheelchairs, within 90-days from the date of the Closing Letter from ICRC.
- 8) ICRC concurs with Respondents' proposal to reverse the swing of the door at the bathroom in Units C102, C202, C302 and C402, to allow the bathroom door to swing out into the bedroom and result in the require clear floor space in the bathroom outside the swing of the door, within 90 days of the date of the Closing Letter from ICRC.
- 9) ICRC concurs with Respondents' proposal to replace the toilets in the "C-S9" shared bathrooms in Units A212, A312, and A412 with a new toilet with a non-elongated bowl type toilet – which will protrude approximately 2 1/2" less into the bathroom space – to allow for the required clearance of a 30"-by-48" clear floor space outside of the swing of the door, within 90 days of the date of the Closing Letter from ICRC.
- 10) ICRC concurs with Respondents' proposal (i) to remove or modify the shower and surrounding walls in Units A212, A312, and A412, so that the shower is entered from the South rather than from the East, and to increase the width of the passage to the adjacent closet to greater than 36" and provide 30"-by-48" of clear floor space at the shower; and (ii) to cut 1" to 2" off the wall to shorten the shelves present and will then re-install the drywall in that area and patch the floor finish as required in Units B416, B216, and B316. ICRC concurs with waiting until the units become vacant, but only as long as this retrofit is completed no later than one-year from the date of the Closing Letter from ICRC.
- 11) ICRC concurs with Respondents' proposal to replace the countertop and move the midline of the sink 24" from the adjacent wall in unit B115, within 120 days of the date of the Closing Letter from ICRC.
- 12) ICRC concurs with Respondents' determination that in Unit C404 – which is an ANSI Type-B unit as indicated in the plans – the height of the sink is 35 3/4", and is therefore in compliance with the 36"-maximum height requirement for bathroom sinks with non-removable cabinets. None of vanity cabinets under the bathroom sinks of the ANSI Type-B Units are removable, and therefore may be as high as 36" above the finished floor surface. ICRC will not require any modification or retrofit for this particular feature.
- 13) ICRC concurs with Respondents' proposal to install a towel hook in each unit at a height that will not exceed the permissible height, within 90 days of the date of the Closing Letter from ICRC.

### Additional Terms

Because Invision previously entered into a Predetermination Settlement Agreement with the ICRC to resolve allegations of violations of the ICRA and the FHA, the ICRC will require additional terms in the current settlement agreement that are applicable only to Invision.<sup>36</sup> The ICRA allows for civil fines or financial penalties to be assessed for repeat violations of the ICRA.<sup>37</sup> However, in lieu of civil fines or

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<sup>36</sup> See previous settlement agreement for ICRC complaint CP# 08-15-67825 [Sierra Pointe] at [https://icrc.iowa.gov/sites/default/files/documents/CP\\_08-15-67825.pdf](https://icrc.iowa.gov/sites/default/files/documents/CP_08-15-67825.pdf) (Last visited on April 5, 2018).

<sup>37</sup> See Iowa code § 216.15A(11) available online at <https://www.legis.iowa.gov/docs/code/216.pdf>.

financial penalties and consistent with the ICRC's concern about persons who repeatedly violate the ICRA, additional terms applicable to Invision are set forth in Paragraphs 21 through 25.

### Predetermination Settlement Agreement

A complaint having been filed by Complainant against Respondents with ICRC under Iowa Code Chapter 216 and there having been a preliminary inquiry, including an on-site inspection of the subject property, the parties do hereby agree and settle the above-captioned matter in the following extent and manner:

#### *Acknowledgment of Fair Housing Laws*

- 1) Respondents agree there shall be no discrimination, harassment, or retaliation of any kind against Complainant or any other person for filing a charge under the "Iowa Civil Rights Act of 1965" (ICRA); or because of giving testimony or assistance, or participating in any manner in any investigation, proceeding or hearing under the ICRA; or because of lawful opposition to any practice forbidden by the ICRA. Iowa Code § 216.11(2).
- 2) Respondents acknowledge the ICRA makes it unlawful to discriminate in the terms, conditions or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection with the dwelling because of race, color, creed, sex, sexual orientation, gender identity, national origin, religion, disability, or familial status. Iowa Code § 216.8(1)(b).
- 3) Respondents acknowledge the ICRA makes it unlawful to sell, rent, lease, assign, sublease, refuse to negotiate, or to otherwise make unavailable, or deny any real property or housing accommodation or part, portion, or interest therein, to any person because of the race, color, creed, sex, sexual orientation, gender identity, religion, national origin, disability, or familial status of such person. Iowa Code § 216.8(1)(a).
- 4) Respondents acknowledge the Fair Housing Act (FHA) makes it unlawful to sell, rent, lease, assign, sublease, refuse to negotiate, or to otherwise make unavailable, or deny any real property or housing accommodation or part, portion, or interest therein, to any person because of the of race, color, religion, sex, familial status, or national origin. 42 U.S.C. 3604(f)(1)(a) (§ 804(f)(1) of the Fair Housing Act).
- 5) Respondents acknowledge the FHA and ICRA make it unlawful to refuse to make reasonable accommodations in rules, policies, practices, or services, when the accommodations are necessary to afford the person equal opportunity to use and enjoy a dwelling and to the extent that the accommodation does not cause undue financial or administrative burden or fundamentally alter the nature of the provider's operations. 42 U.S.C. 3604(f)(3)(b) (§ 804(f)(3)(b) of the Fair Housing Act); Iowa Code § 216.8A(3)(c)(2).
- 6) Respondents acknowledge the FHA and ICRA make it unlawful to discriminate against another person in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection with the dwelling because of a disability. 42 U.S.C. 3604(f)(2)(a) (§ 804(f)(2)(a) of the Fair Housing Act); Iowa Code § 216.8A(3)(b)(1).
- 7) Respondents acknowledge as owners, developers, builders, or managers of covered multifamily dwellings – ground-floor units in buildings with no elevator or all units in buildings with an elevator, and consisting of four or more dwelling units built for first occupancy after January 1, 1992 – must build those dwellings in compliance with specific design and construction accessibility requirements, in accordance with the FHA and ICRA. Iowa Code §216. 8A(3)(c)(3); 42 U.S.C. §3604(f)(3)(C).



HUD has described these accessibility requirements via regulation and in several publications, including the “Final Fair Housing Accessibility Guidelines.” 24 C.F.R. Part 100.200 et seq.; 56 Fed. Reg. 9,472. In the “Guidelines,” HUD presented the seven specific requirements as:

Requirement 1 – Accessible building entrance on an accessible route.

Requirement 2 – Accessible and usable public and common areas.

Requirement 3 – Usable doors.

Requirement 4 – Accessible route into and through the covered dwelling unit.

Requirement 5 – Light switches, electrical outlets, thermostats and other environmental controls in accessible locations.

Requirement 6 – Reinforced walls for grab bars.

Requirement 7 – Usable kitchens and bathrooms.

#### *Voluntary and Full Settlement*

8) The parties acknowledge this Predetermination Settlement Agreement is a voluntary and full settlement of the disputed complaint. The parties affirm 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.

9) The parties enter into this Agreement in a good faith effort to amicably resolve existing disputes. The execution of this Agreement is not an admission of any wrongdoing or violation of law. Nor is the execution of this Agreement an admission by Complainant that any claims asserted in her complaint are not fully meritorious.

10) The parties agree the execution of this Agreement may be accomplished by separate counterpart executions of this Agreement. The parties agree the original executed signature pages will be attached to the body of this Agreement to constitute one document.

11) Respondents agree the ICRC may review compliance with this Agreement. And as part of such review, Respondents agree the ICRC may examine witnesses, collect documents, or require written reports, all of which will be conducted in a reasonable manner by the ICRC.

#### *Disclosure*

12) Because, pursuant to Iowa Code §216.15A(2)(d), the ICRC has not determined that disclosure is not necessary to further the purposes of the ICRA relating to unfair or discriminatory practices in housing or real estate, this Agreement is a public record and subject to public disclosure in accordance with Iowa’s Public Records Law, Iowa Code Chapter 22. See Iowa Code §22.13.

#### *Release*

13) Complainant hereby waives, releases, and covenants not to sue Respondents with respect to any matters which were, or might have been alleged as charges filed with ICRC, the Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development, or any other anti-discrimination agency, subject to performance by Respondents of the promises and representations contained herein. Complainant agrees any complaint filed with any other anti-discrimination agency, including the Office of

Fair Housing and Equal Opportunity, Department of Housing and Urban Development, which involves the issues in this complaint, shall be closed as Satisfactorily Adjusted.

*Fair Housing / Accessible Design and Construction Training*

14) Respondents acknowledge the following individuals from Invision currently participate in the management of the development, design, and/or construction of covered multifamily properties, as defined in paragraph “7)” on Page 17 of the current agreement: Mark Nevenhoven, Mike Bechtel, Bill Futrell, Dan Schwerts. Estes Construction acknowledges the following individuals currently participate in the construction or development of multifamily projects as defined in paragraph “7)” on Page 17 of the current agreement: : Reed Festing-Smith, Gregg Schmidt, and Cameron McGuire.

If any management employee of Invision or Estes Construction other than specified starts participating in the development, design, and/or construction of covered multifamily properties within one year from the date of the Closing Letter from ICRC, Respondents agree to notify ICRC of the change, including the names of any applicable persons, within fourteen (14) days from the date of the change.

15) All persons identified in “14)” paragraph of the current section will:

(a) Receive training on the accessible design and construction requirements of State and Federal Fair Housing Laws. The training will address the Fair Housing accessibility requirements that must be met in order to design and build covered dwellings and common use/public areas that are accessible and usable to individuals with mobility and visual impairments.

The training shall be conducted by a qualified person, approved by ICRC or the U.S. Department of Housing and Urban Development. Additionally, attendance at one of the training events offered by Fair Housing Accessibility First – information about which is available online at <http://www.fairhousingfirst.org/training/calendar.html> - will fulfill the requirement for this term.

(b) Complete the training pursuant to “(a)” paragraph above within 180 days of the date of the Closing Letter from the ICRC if currently developing, designing, and /or building covered multifamily properties.

(c) Complete the training pursuant to “(a)” paragraph above within 180 days of their first day of developing, designing, and /or building covered multifamily if not currently engaged in the aforementioned activities.

(d) All persons identified in “14)” paragraph of the current section also agree to send documentation to ICRC, verifying the fair housing / accessible design and construction training has been completed, within ten days of completing the training.

16) Respondents agree all persons identified in “14)” paragraph of the current section will:

(a) Review and become familiar with the Fair Housing Accessibility Guidelines, 56 Fed. Reg. 9472 (1991) and the United States Department of Housing and Urban Development, Fair Housing Act Design Manual, A Manual to Assist Builders in Meeting the Accessibility Requirements of the Fair Housing Act, (August 1996, Rev. April 1998), which may be obtained online at <http://www.huduser.gov/portal/publications/PDF/FAIRHOUSING/fairfull.pdf>.

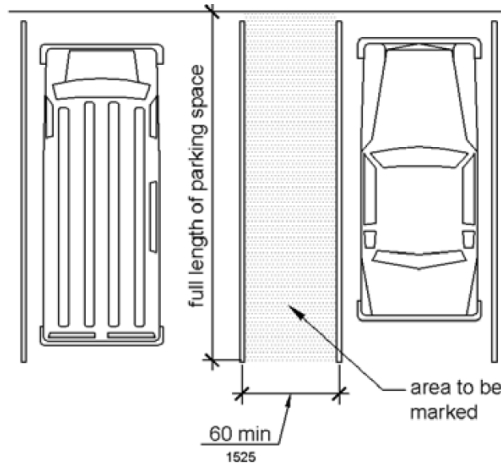
- (b) Submit separate signed written statements via email from each of the Respondents' representatives named above in paragraph "(a)", and their current employees or agents who are involved in the design and/or construction of covered multifamily-dwelling properties indicating:
- i. They have reviewed and become familiar with the Fair Housing Act Design Manual.
  - ii. They understand what the Seven Main "Design Requirements of the Guidelines" are by listing them in the written statement.
- (c) Complete the requirements in "(a)" and "(b)" paragraphs of the current section within 120 days of the date of the Closing Letter from the ICRC if currently developing, designing, and /or building covered multifamily properties.
- (d) Complete the requirements in "(a)" and "(b)" paragraphs of the current section within 120 days of their first day of developing, designing, and /or building covered multifamily if not currently engaged in the aforementioned activities.

*Required Modifications or Retrofits*

- 17) Respondents agree to make the following modifications or retrofits to the subject property:

*Accessible and Usable Public and Common Use Areas – Parking Area*

- (a) The parties agree that although the two parking spaces furthest away and furthest south of the main entrance to Building B, and the access aisle that is located between them meet the 2010 ADAAG dimensions for Van-Accessible parking spaces and access aisles, neither one of these parking spaces had the required signage designating each as "Van-Accessible."
- (b) The parties agree that in the parking area adjacent to Building C, the access aisles that are shared by the three parking spaces designated as reserved for use by persons with disabilities are too narrow because they measure less than the 60"-minimum required in the 2010 ADAAG.
- (c) Respondents agree Estes Construction will install "Van Accessible" signage at one of the two parking spaces currently designated as reserved for persons with disabilities that are described above in subparagraph "(a)" of the current section, such that the bottom edge of the sign is no less than the 60"-minimum required by 2010 ADAAG.
- (d) Respondents agree Estes Construction will restripe the sidelines in the access aisles adjacent to Building C, such that the widths of the access aisles are a minimum of 60" as measured between the midlines of the lines on the sides of the access aisle, and running the full length of the parking space, as indicated in the figure below taken from Section 502.3 of the 2010 ADAAG:



**Figure 502.3**  
**Parking Space Access Aisle**

(e) Respondents agree Estes Construction will complete the retrofits described in the current subsection within 60 days from the date of the Closing Letter from ICRC.

*Accessible and Usable Public and Common Use Areas – Sidewalk Paths Along Accessible Route to Common Areas*

(a) The parties agree the running slopes of the sidewalk sections that are part of the paths from the main entrance of Buildings A and C to the parking spaces designated as reserved for persons with disabilities, and to the waste dumpsters – as reported on page 4 of the current agreement – need to meet maximum slope values established by ANSI 1986 – 2% maximum cross-slope; 5% maximum running-slope without ADA-compliant handrails – because they are part of the direct route to the aforementioned common-use areas, and therefore need to be accessible.

(b) The parties agree that sections of these paths, as reported on page 4 of the current agreement, have running slopes that are greater than the slope maximums referenced above.

(c) Respondents agree Estes Construction will replace the non-compliant sidewalk sections exceeding maximum 5% running-slope requirements at Buildings A and C – referred to on page 4 of the current agreement – such that those sidewalk sections, once replaced, will have a running-slope value of no more than 5% and a cross-slope value of no more than 2%, as required by ANSI 1986.

(d) Respondents agree Estes Construction will complete the retrofits described in the current subsection within 60 days from the date of the Closing Letter from ICRC.

*Accessible and Usable Public and Common Use Areas – Mailboxes*

(a) The parties agree that the mailbox keyholes at the mailbox compartments in the top two rows of the mailbox kiosk exceed the 54”-maximum height allowed by ANSI 1986.

(b) Respondents agree Jackson Crossing, L.L.C. will coordinate with the United States Postal Service to replace the pedestals of all mailbox kiosks at the subject property with shorter ones such that all mailbox compartments will have keyholes with midlines that do not exceed the maximum the 54”-maximum height

– that is allowed because there is sufficient clearance for tenants who use a wheelchair to make a parallel approach – as required by ANSI 1986.

(c) Respondents agree Jackson Crossing, L.L.C. will complete the retrofits described in the current subsection within 60 days from the date of the Closing Letter from ICRC.

*Accessible and Usable Public and Common Use Areas – Touchscreen Monitor at Fitness Center*

(a) The parties agree that the height of the operable controls of the touchscreen monitor at the Fitness Center exceeds the 54”-maximum reach-range for a parallel approach, as specified in ANSI 1986.

(d) Respondents agree Jackson Crossing, L.L.C. will vertically relocate the touchscreen monitor at the Fitness Center, such that the reach-range height will be decreased to a maximum of 54”– that is allowed because there is sufficient clearance for tenants who use a wheelchair to make a parallel approach – as required by ANSI 1986.

(e) Respondents agree Jackson Crossing, L.L.C. will complete the retrofits described in the current subsection within 60 days from the date of the Closing Letter from ICRC.

*Usable Doors – Door-Opening Force*

(a) The parties agree the door-opening force for the doors to the both common-use bathroom at the Community Room – which are not fire-rated doors – exceeds the 5-lbs. maximum force allowed by ANSI 1986 for interior-hinged doors that are not fire-rated.

(b) The parties agree the door-opening force for the front doors to Units A118, A123, A413, C110, and C416 – which are fire-rated doors – exceed the 15-lbs. maximum force allowed by ANSI 1986 for fire rated doors.

(c) Respondents agree Estes Construction will adjust the self-closers at the doors to the common-use bathrooms to reduce the opening force at these doors to no more than 5 lbs. to bring them into compliance 5-lbs. force maximum allowed by ANSI 1986 for doors that are not fire rated.

(d) Respondents agree Estes Construction will adjust the self-closers at the front doors to Units A118, A123, A413, C110, and C416 to reduce the opening force at these doors to no more than 15 lbs. to bring them into compliance 15-lbs. force maximum allowed by ANSI 1986 for fire-rated doors.

(e) Respondents agree to inspect the opening force at the primary-entrance door for each of the other units not inspected by ICRC Investigators. For any primary-entrance door requiring more than 15 lbs. of opening force, Respondents agree Estes Construction will reduce the opening force to bring each of those doors into compliance with 15-lbs. required maximum.

(f) Respondents agree Estes Construction will complete the retrofits described in the current subsection for the common areas within 60 days from the date of the Closing Letter from ICRC.

(g) Respondents agree Estes Construction will complete any required retrofits described in the current subsection at the dwelling units whenever they are unoccupied and no later than one year from the date of the Closing Letter from ICRC.

*Light Switches, Electrical Outlets, Thermostats, and Other Environmental Controls in Accessible Locations – Thermostats*

- (a) The parties agree the height of the top thermostat controls in all inspected units – except for Unit C416 – exceed the maximum height of 48”, as allowed by the Manual.
- (b) Respondents agree Estes Construction will vertically relocate the thermostats in all units to a lower height, such that the display screen and all operating buttons do not exceed maximum height of 48”, as required by the Manual.
- (c) Respondents agree Estes Construction will complete the retrofits described in the current subsection within 90 days from the date of the Closing Letter from ICRC.

*Usable Kitchens – Clear Floor Space at Range*

- (a) The parties agree the distance from the midline of the sink to the nearest obstruction in Unit B400 was measured at less than the 24”-minimum required by the Manual.
- (b) Respondents agree Invision will arrange for the installation of a solid-surface cover at the kitchen sinks of Unit B400 – and similarly designed Unit B300 – to be mounted over the left side bowl of the double sink to convert it to a single bowl sink, such that the midline of the resulting sink will be no closer than 24” from the nearest obstruction to allow for the parallel approach to the sink by persons using wheelchairs.
- (c) Respondents agree Invision will complete the retrofits described in the current subsection within 90 days from the date of the Closing Letter from ICRC.

*Usable Bathrooms – Clear Width of Routes, Clear Floor Space at Bathing Fixtures, and Clear Floor Space Outside the Swing of Door*

- (a) The parties agree the clear width of the route connecting the entrance of the master bathroom with the walk-in closet in Unit A212, and of route connecting the bathroom entrance to the toilet in Unit B416, are both less than the 36” minimum allowed for accessible routes that exceed 24” in length as required by the Manual.
- (b) The parties agree the clear floor space at the shower stall of the master bathroom in Unit A212 is less than the 30”-by-48” required by the Manual at the bathing fixtures.
- (c) The parties agree the clear floor space outside of swing of the door in the bathrooms for Units A212 and C202 is less than 30”-by-48”, as reported on page 6 of the current agreement, which is less than the minimum required by the Manual.
- (d) Respondents agree Estes and Invision will perform the following retrofits:
  - i. Invision will remove or modify the shower and surrounding walls of the master bathroom in Unit A212 – and in similarly-designed Units A312 and A412 – such that the shower is entered from the South instead than from the East, and so as to increase the width of the route to the adjacent walk-in closet to no less than 36”, and provide no less than 30”-by-48” of clear floor space flushed and parallel with the shower stall, as required by the Manual.

ii. Estes will cut 1” to 2” off the wall to shorten the shelves adjacent to the route from the bathroom door to the toilet in Unit B416 – and in similarly-designed Units B216 and B316 – re-install the drywall in the same area and patch the floor with the same type of finish to increase the width of this route to no less than 36”, as required by the Manual.

iii. Invision will replace the toilets in the hallway bathroom of Unit A212 – and in similarly-designed Units A312 and A412 – with a toilet that has a non-elongated bowl, such that it will protrude into the bathroom space by approximately 2 ½” less to allow for the required clearance of a 30”-by-48” clear floor space outside of the swing of the door.

iv. Estes will reinstall the door in the hallway bathroom in Unit C202 – and in similarly-designed Units C102, C302, and C402, to reverse the swing of the door, such that it will swing away from the bathroom, and create the minimum clear floor space dimensions of 30”-by-48”, as required by the Manual.

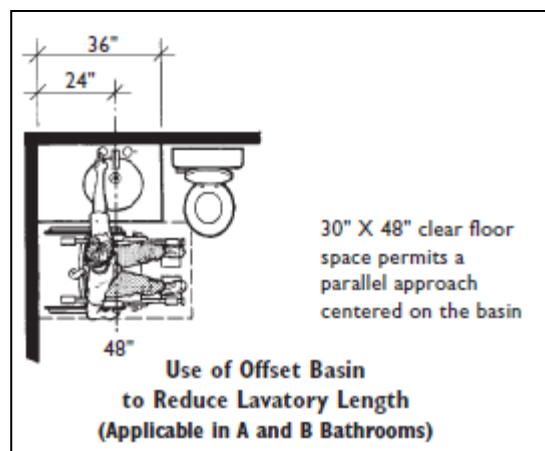
(e) Respondents agree Estes and Invision will complete the retrofits described in paragraphs “i,” “ii,” and “iii.” whenever the dwelling units become vacant but no later than one year from the date of the Closing Letter from ICRC.

(f) Respondents agree Estes will complete the retrofits described in paragraph “iv.” within 90 days from the date of the Closing Letter from ICRC.

#### *Usable bathrooms – Bathroom Sinks*

(a) The parties agree the distance from the midline of the sink to the adjacent wall in the bathroom of Unit B115, was measured at under the 24”-minimum for bathroom sinks without removable cabinets, as required by the Manual.

(b) Respondents agree Estes Construction will retrofit the non-complaint bathroom sinks in Unit B115 – and in similarly-designed Units B215, B 315, and B415 – by replacing the counter top and move the sink further away from the adjacent wall, such that the midline of the sink will be no less than 24” from the nearest obstruction as required in the Manual, and as shown in the figure below from the Manual:



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<sup>38</sup> See Manual at 7.47

(d) Respondents agree Invision will complete the retrofits described in the current subsection within 120 days from the date of the Closing Letter from ICRC.

*Usable Bathrooms – Towel Bars*

(a) The parties acknowledge the reachability of bathroom towel bars in is not specifically required in the Manual.

(b) The parties agree the height of the bathroom towel bars in Units A118, A212, B400, A209, C110, C202, C212, C316, and C404 was measured at no less than 62”, which is more than the 54”-maximum height – that is established by ANSI 1986 because there is sufficient clearance for persons who use a wheelchair to make a parallel approach – for features to be reachable by persons using wheelchairs.

(c) Respondents agree Invision will install a towel hook at a height of no greater than 54” near the existing towel bars in the bathrooms of all units listed in paragraph “(b)” above, as required by ANSI 1986 such that these features will be reachable.

(d) Respondents agree Invision will complete the retrofits described in the current subsection within 90 days from the date of the Closing Letter from ICRC.

*Required Timelines for Completion of Modifications or Retrofits*

18) Respondents agree to notify all current tenants, via a letter, within 60 days from the date of the Closing Letter from ICRC about the option to have any of the above-required modifications or retrofits performed in their unit because of a disability for at no charge to the tenants.

19) Respondents agree to complete all retrofits requested by a tenant due to a disability within a reasonable amount of time based on the complexity of the retrofit and no later than 45 days from the date the request is submitted by the tenant.

20) Respondents agree that those tenants who request modifications or retrofits to be performed in their unit because of a disability will be allowed to remain in their units while the renovations are being completed, so long as their continued stay is safe and does not unduly disrupt the renovation work. If their continued stay is not safe or unduly interferes with renovation work, Respondents agree to make available an alternative unit or reasonable accommodations at alternative location on a temporary basis, until the unit is made safe or the renovation work is completed. Respondents agree to pay all costs generated by such accommodations.

*Mandatory Self-Inspections and Reports – Invision*

21) Respondent Invision agrees Invision will, within 30 days from the date of the Closing Letter from ICRC, submit – to ICRC (Attn: Emigdio Lopez-Sanders; Iowa Civil Rights Commission, 400 East 14<sup>th</sup> Street, Des Moines, Iowa 50319-0201, OR via email at [emigdio.lopez-sanders@iowa.gov](mailto:emigdio.lopez-sanders@iowa.gov)) – a written list of active projects for “covered multifamily dwellings”, as defined by Iowa Code §§216.2(4) and 216.8A(3)(c)(3), that have been constructed or have reached the design development phase and are moving to the construction phase within the state of Iowa since August 27, 2015. Currently, the only active projects for “covered multifamily dwellings are Sierra Pointe, Jackson Crossing and City Square, which the ICRC is already investigating. Two other projects were initiated by Invision but the developer has elected not to



proceed with these two projects. If these two projects should move forward in the design process in the period of one calendar year from the date on the Closing Letter from ICRC, Invision will advise the ICRC as contemplated in paragraph 23 below.

22) Respondent Invision agrees, for each of those covered multifamily dwellings covered by paragraph “21,” Invision will report to ICRC: (1) the property name and address, (2) the developer and builder’s name(s) and address(es), (3) the owner and manager’s name(s) and address(es), and (4) the date when the first dwelling unit was rented or sold. Respondent Invision agrees to provide that report within 30 days of receiving a Closing Letter from the ICRC.

23) For any properties that have not yet reached the design development phase, for a period of one calendar years from the date on the Closing Letter from ICRC, and within 30 days from the date each new property reaches the design development phase, Respondent Invision agrees Invision will submit reports regarding these new projects, in the same manner as required in paragraphs “21” and “22” above.

24) Respondent Invision agrees Invision will review all plans and inspect fully built projects – for all covered properties included in the reports submitted in compliance of paragraphs “21” and “22” above – for compliance with the design and construction accessibility requirements in the ICRA and FHA, as specified in the Manual, which is available online at <https://www.huduser.gov/portal/publications/PDF/FAIRHOUSING/fairfull.pdf>.

25) Respondent Invision agrees, for each of those covered properties included in the reports submitted in compliance with paragraphs “21,” “22,” “23,” and “24” above, INVISION will report to ICRC, in the manner required in paragraph “21” above, whether they found any deficiencies or violations of the FHA or ICRA. If their inspections of fully-built features found any deficiencies or violations, Respondent Invision agrees Invision will report to ICRC a description and proposed correction of each deficiency or violation in detail.

If formal plan reviews at the end of the construction document phase of features not fully built indicate any deficiencies or violations of the accessibility requirements, Respondents agree Invision will report – in the same manner as described in the above paragraph – these deficiencies and their corrections to ICRC and the builder of each affected property within fourteen days from the date of the plan formal review at the end of the construction document phase.

*Mandatory Reports – All Respondents*

26) Respondents agree to notify when they have completed the required modifications or retrofits for each of the units and the public and common use areas. Such notification shall be made within 90 days of completion. These required notifications to ICRC after each unit or common area is modified or retrofitted will continue until all required modifications or retrofits have been completed in all 244 units.

27) Respondents agree to send a copy to ICRC (Attn: Emigdio Lopez-Sanders; Iowa Civil Rights Commission, 400 East 14<sup>th</sup> Street, Des Moines, Iowa 50319-0201) of all written reasonable accommodation requests for the above-required retrofits and modifications.

28) Respondents agree, as the required modifications or retrofits are made to a particular unit, ICRC may then inspect such unit, and then report the results of its inspection, addressing any outstanding deficiencies, in writing and within 30 days of the inspection, to Respondents. If the inspection indicates

outstanding deficiencies, Respondents shall correct all such deficiencies within a reasonable period of time as determined by ICRC.

29) The sale or transfer of ownership, in whole or in part, by any owner of the subject property will not affect any obligation to modify or retrofit the subject property as specified in this Agreement, unless Respondents have obtained, in writing, as a condition of sale or transfer, the purchaser or transferee's commitment to be bound by the terms of this agreement to complete all required modifications or retrofits as specified in this Agreement.

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Jackson Crossing, LLC  
RESPONDENT

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Date

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South Union Corner, LLC  
RESPONDENT

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Date

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Estes Company, LLC  
RESPONDENT

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Date

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Invision Architecture, LTD  
RESPONDENT

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Date

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Angela Jackson, Commissioner  
COMPLAINANT

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Date

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Kristin H. Johnson, Executive Director  
IOWA CIVIL RIGHTS COMMISSION

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Date