

PREDETERMINATION SETTLEMENT AGREEMENT

CP# 08-18-72415
HUD# 07-18-9955-8

PARTIES TO THE SETTLEMENT AGREEMENT:

RESPONDENTS

EAGLE VIEW LOFTS, LLC
5665 Greendale Road, Suite A
Johnston, Iowa 50131-1592

THE HANSEN COMPANY, INC.
5665 Greendale Road, Suite A
Johnston, Iowa 50131-1592

SLINGSHOT ARCHITECTURE, INC.
305 East Court Avenue
Des Moines, Iowa 50309-2014

COMPLAINANT

ANGELA JACKSON, COMMISSIONER
Iowa Civil Rights Commission
400 East 14th Street, Room 201
Des Moines, Iowa 50319-0201

and

IOWA CIVIL RIGHTS COMMISSION
400 East 14th 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 "accessible and usable public and common use areas," the "light switches, electrical outlets, thermostats, and other environmental controls in accessible locations," and the "usable kitchens and bathrooms."¹

¹ 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)(ii) [Requirement 5 – Light Switches, Electrical Outlets, Thermostats, and Other Environmental Controls in Accessible Locations], and 216.8A(3)(c)(3)(c)(iv) [Requirement 7 – Usable Kitchens and Bathrooms].

Complainant specifically alleged, in Units 719 and 720, 210 SE 6th Street, Eagle View Lofts (“Eagle View”), four features in the common areas and three features within two of the covered units appeared inaccessible to a person utilizing a wheelchair for mobility , as listed below:

- (1) The height of the midlines of the keyholes of the fifth row from the top of the mail compartments at the wall-mounted mailbox station were measured at 54 ³/₈”, so the top five rows of mailboxes are higher than the 54”-maximum allowed for a parallel approach by persons using a wheelchair.
- (2) There is no accessible route from the access aisle to the building entrance because of a safety bollard that blocks the route.
- (3) The width of the access aisle measured 57 ⁷/₈”, which is less than the 60”-minimum required.
- (4) The signage required to be mounted on either a pole or on a building in front of the parking spaces reserved for use by persons with disabilities was missing.
- (5) The heights of the thermostat top controls were measured at 54” in Units 719 and 720, which is more than the allowed maximum height of 48”.
- (6) The clearance from the midline of the kitchen sink to opposing countertop was measured at 17” in Unit 720, which is less than the 24”-minimum clearance required for a parallel approach needed because the cabinet below the sink as observed by the tester was not easily removable.
- (7) The clearance from the midline of the range to opposing countertop was measured at 19” in Unit 719, which is less than the 24”-minimum clearance required for a parallel approach needed because a forward approach is not possible.

References to Respondents Throughout Agreement

Throughout the agreement ICRC refers to “Respondents” as a group to include Eagle View Lofts, LLC., The Hansen Company, Inc., and SlingShot Architecture, Inc. However, where this agreement imposes an obligation on Respondents to perform retrofits and/ or reporting of the completion of retrofits, **those obligations are the sole responsibility of Respondent Owner, Eagle View Lofts, LLC** under this agreement. Respondents The Hansen Company, Inc. and SlingShot Architecture, Inc. have no obligation under this agreement to perform retrofits and/ or report the completion of the proposed retrofits to ICRC. This paragraph is only referencing access to the property and reporting responsibilities to ICRC. All other contractual obligations and responsibilities between the respondents are still current and this settlement agreement does not supersede those previous agreements. All parties listed in this settlement agreement agree to cooperate to correct the items in this settlement agreement. The parties intend to enter a separate agreement to memorialize their role and responsibility to complete the items in this settlement agreement.

Description of the Subject Property

Subject Property

Eagle View consists of one building located at 712 SE 6th Street. The residential floors of the building and common use / public areas will all be required to meet the same accessibility requirements of the ICRA and

FHA. The building at Eagle View was issued a Certificate of Occupancy signed by Terry Berk, Building Official for the City of Des Moines on November 28, 2017.

The scope of the current agreement includes all of the dwelling units and the public and common use areas, including the fitness room, community gardens, lobby area, elevator, dumpsters, coffee-bar area, and the wall-mounted mailbox units adjacent to the main entrance.

The dwelling units at Eagle View consist of five floor-plan types, which have been grouped by Respondents based on their floor-plan configurations.² Respondents' reorganization of the unit types has resulted in four separate groups of units, which are all 1BR/1BA units.

The table below lists the unit types that were grouped together. It also provides the unit numbers for the inspected units, and the total number of units by group.

Unit Type(s)	Inspected Unit Numbers and Types	Total Units Per Group
A	710 (A)	42
B	701 (B)	42
C and E	719 (C)	12
D	718 (D) [Test Unit]	24
	TOTAL	120

Respondents' Defenses

When asked in the questionnaire what was true or false about the allegations, Respondents answered:
No response at this time.

Report of Preliminary Findings:

ICRC Investigators inspected five units at Eagle View, 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 from the previous page, and the public/common use areas, ICRC Investigators found and reported the following deficiencies:

- 1) The widths of all four parking spaces designated as reserved for use by persons with disabilities and the three adjoining access aisles in the uncovered and covered parking areas were measured by ICRC Investigators in the manner required by Section 502.1 of the "2010 Standards for Accessible Design" ("ADAAG").. The measured widths and the widths found in the plans are listed in the following table in order from north to south, with the non-compliant parking features highlighted in bold:³

² See Appendix B for floor plans.

³ See Appendix A, Photos 1C, 1D, 1E, 1G, 1H, and 1I.

LOCATION	PARKING FEATURE (COVERED / UNCOVERED)	MEASURED WIDTH	DESIGNED WIDTH
	Space (uncovered)	96"	96"
	Access aisle (uncovered)	95 1/2"	96"
	Space (uncovered)	96 1/4"	96"
	Space (covered)	109"	108"
	Access aisle (covered)	76" (to bench)	100"
	Space (uncovered)	95 1/2"	96"
	Access aisle (uncovered)	58"	66"

ICRC Investigators observed a bench that occupies part of the width for the access aisle. In the area between the covered parking space and the bench, the width of the access aisle is 76" as reported in the table above. The width of the access aisle is 97 1/2" in the portions east and west of the bench, which would have made the access aisle compliant with the 96"-minimum requirement if the access aisle remained at 97 1/2" wide for the entire length of the parking space. However, the bench creates an obstruction that reduces the width of the access aisle – in the portion between the bench and the parking space from 97 1/2" to 76" – and makes it too narrow because it is less than the 96"-minimum width required. No instructions or diagrams were found in the construction plans that required the installation of a bench in this access aisle.

If the parking spaces and access aisles were striped according to the construction plans, they would have been compliant with the width requirements from Section 502.2 from the ADAAG previously cited. However, as striped, the widths for the access aisle and the parking space furthest to the south in the uncovered area and the access aisle in the covered area are less than the minimum widths required. Although the other parking spaces and access aisles reported in the table above are wide enough to meet the respective width requirements for cars, the north access aisle in the uncovered area and the south access aisle in the covered area not wide enough for access aisles serving vans. The insufficient widths of the parking spaces and access aisles make these parking features unusable by persons with disabilities.

- 2) Signage meeting the requirements from Section 502.6 of the ADAAG is missing from the four parking spaces reserved for use by persons with disabilities, including the signage designating the covered parking space as "Van-Accessible."⁴ The missing required signage is likely to result in these four parking spaces not being available to persons with disabilities.
- 3) ICRC Investigators measured 32" for the clear width between the safety bollard and the access aisle that is closest to the main building entrance. Therefore, the information gathered by ICRC Investigators does not support the allegation in the current complaint that the route from the access aisle to the building entrance is inaccessible. No further action is required by Respondents in response to this alleged deficiency.
- 4) According to the construction plans, the height of the top edge of the highest mailbox compartment was designed to be installed at 71 1/4", and each mailbox was designed to be 3 1/4" high. The midline of each mailbox compartment corresponds to the midline of the keyholes, which is the height measured by ICRC Investigators at each row of mailboxes.

⁴ See Appendix A, Photos 1A and 1B.

The heights to the midline of the keyholes at the top five rows of mailboxes were measured, and are listed in the following table:

MAILBOX ROW	HEIGHT
Top	69 ⁵ / ₈ "
Second	66 ¹ / ₈ "
Third	62 ⁵ / ₈ "
Fourth	59 ¹ / ₈ "
Fifth	55 ³ / ₄ "

The mailboxes were installed at the same heights as indicated in the construction plans. The top five rows of mailboxes – as designed and installed – exceed the 54"-maximum allowed for a parallel approach by ANSI 1986, and render these mailboxes inaccessible.⁵

5) ANSI requires the opening force for interior-hinged doors to be no greater than 5 pounds. The door to the waste dumpsters required 7 pounds of force to open and the door to the Fitness Center required 7 ½ pounds.⁶ 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.

The force required to open the doors to the waste dumpsters and the Fitness Center exceeded the 5-pound maximum limit allowed by ANSI 1986 for interior-hinged doors. These doors require too much force to open, which makes them unusable for persons with disabilities who have diminished strength to push or pull.

A review of the construction plans submitted by Respondents did not reveal any instructions or diagrams about the door-opening force for doors

6) ICRC Investigators took measurements of the clear opening width at the secondary doorways within all inspected units. The clear opening width of the doorways that were narrower than the 31 ⁵/₈"-minimum required are listed in the following table, along with the corresponding clear opening widths of these doorways as based on the construction plans.

UNIT # [TYPE]	DOORWAY ROOM	MEASURED CLEAR OPENING WIDTH	DESIGNED CLEAR OPENING WIDTH
710 [A]	Bathroom	31 ¹ / ₄ "	32"
701 [B]	Bathroom	31"	32"
719 [C]	Walk-in closet	25"	32"
	Bedroom	30 ¹ / ₂ "	32"
	Bathroom	31 ³ / ₈ "	32"
718 [D]	Walk-in closet	30"	30"
	Bathroom	31 ¹ / ₄ "	32"

Except for the walk-in closet at Unit 718 [D], the doorways reported in the table above were designed to be sufficiently wide to be compliant with the 31 ⁵/₈"-minimum width requirement. However, as built, the clear opening widths of these secondary doorways are less than the 31 ⁵/₈"-minimum width

⁵ See Appendix A, Photos 2A and 2B.

⁶ See Appendix A, Photo 3A.

requirement. As designed and built, the clear opening width of the doorway at the walk-in closet in Unit 718 [D] is less than the 31 $\frac{5}{8}$ "-minimum width requirement. Therefore, all the doorways listed in the table above are too narrow, rendering them unusable by persons using wheelchairs.⁷

7) The height of the top control buttons of the thermostats in all inspected units was measured at no less than 53", which exceeds the 48"-maximum height.⁸ The thermostats are too high, rendering them unusable by persons using wheelchairs.

8) Measurements were taken by ICRC Investigators from the midline of the kitchen sink to the closest opposing countertop in each of the inspected units to verify compliance with either the 15"-minimum required for a forward approach if the cabinets are removable and have sufficient knee space once the cabinets are removed; or with the 24"-minimum required clearance for a parallel approach when the cabinets are not removable.

The base cabinets appeared to be removable to ICRC Investigators at three of the four inspected because they observed the presence of side brackets underneath the sink to support the sink in the event the base cabinets are removed. Also, ICRC Investigators verified the dimensions of the knee space area under the sink are compliant with the dimensional requirements from the Manual previously cited.

However, ICRC Investigators observed the wall behind and under kitchen sink in Unit 701 [B] has a visible area where paint is missing.⁹ Therefore, this sink would need to meet the 24"-minimum clearance requirement for a parallel approach to the sink because it is not complying with the requirement for removable cabinets that requires all surfaces underneath the sink to be fully finished. The distance from the midline of the sink to the opposing countertop is 16 $\frac{1}{4}$ " at the kitchen sink in Unit 701, which is less than the 24" minimum clearance required for parallel approach. If the wall area missing paint underneath the sink is painted with the same type and color of paint as the surrounding area, all surfaces would be finished, and the space in front of the sink would be compliant with the 15"-minimum that is required for a forward approach.

9) Based on the scaled drawings found in the construction plans for Eagle View, the midline of the range was designed to be about 16" away from the adjacent opposing countertop.¹⁰ The midline of the range was measured to be 16 $\frac{1}{2}$ " away from the opposing countertop in Unit 719 and 16 $\frac{1}{4}$ " in Unit 718, which is less than the 24"-minimum required for a parallel approach by someone using a wheelchair.¹¹ As designed and built, the kitchens in Units 719 and 718 are unusable because the midlines of the ranges are too close to the opposing countertops to allow tenants using wheelchairs to make the required parallel approach.

10) In Unit 701, the midline of the bathroom sink was measured to be 13 $\frac{7}{8}$ " from the adjoining wall, which is less than both the 24"-minimum requirement if the base cabinets are not removable and the 15"-minimum requirement if the base cabinets are removable.¹² Respondents maintain the bathroom vanity cabinet is removable. In order for a cabinet to be designated as removable, the Guidelines require (i) that the cabinet be easily and quickly removed; and (ii) the floor under the sink and the wall surrounding the space

⁷ See Appendix A, Photos 3A, 3B, 3C, 3D, 3E, 3F, and 3G.

⁸ See Appendix A, Photo 4A.

⁹ See Appendix A, Photos 5A and 5B.

¹⁰ See Appendix B.

¹¹ See Appendix A, Photos 6A and 6B.

¹² See Appendix A, Photos 7A and 7B.

under the sink to be finished.¹³ The base cabinets in the bathroom of Unit 701 appeared to be removable to ICRC Investigators because they observed the presence of side brackets underneath the sink to support the sink in the event the base cabinets are removed. Also, ICRC Investigators verified the dimensions of the knee space area under the sink are compliant with the dimensional requirements from the Manual previously cited in this report.

So, the bathroom sink in Unit 701 would be compliant with if the midline of the sink were at least 15” away from the wall. However, as previously reported, the midline of the bathroom sink in Unit 701 is too close to the adjoining wall because it is less than 15” – which renders it unusable by persons using wheelchairs.

11) According to the reach requirements in ANSI 1986, the maximum high reach for a parallel approach without obstructions is 54 inches. The heights of the towel hooks in the bathrooms in all inspected units were all measured at 60”.¹⁴ The towel hooks in all inspected units are too high because they exceed the 54”-maximum height allowed by ANSI, rendering them unusable by persons using wheelchairs.

Respondents’ Response to Report of Preliminary Findings:

Following is a summary of Respondents’ responses to the reported deficiencies:

- 1) Respondents will install signage meeting the requirements from Section 502.6 of the ADAAG at the four parking spaces reserved for use by persons with disabilities, including the signage designating either the south covered parking space that is adjacent to the main entrance or the south uncovered parking space as “Van-Accessible.”
- 2) Respondents will either (i) restripe the uncovered parking spaces and access aisles reserved for use by persons with disabilities, as necessary, so as to increase the width of the north access aisle to no less than 96” – as measured in the manner required in Section 502.1 of the ADAAG; or (ii) remove the bench located near in the access aisle serving the parking space designated as reserved for use by persons with disabilities to increase the usable width of the access aisle to 97 ½” – which will result in an access aisle and parking space that is compliant with the 96”-minimum width required at van-accessible parking spaces and access aisles.
- 3) After exploring all possible options, Respondents were not able to find available locations for installing additional mailboxes because the only possible locations would have either fundamentally altered the use of the common areas for the tenants, or included the surface slopes the would have exceeded either the 5%-maximum running-slope or the 2%-maximum cross slope. Therefore, Respondents will send notices to current and future tenants advising them about the option to have Management swap out for a mailbox compartment at a reachable height if required because of a disability.
- 4) Respondents will adjust the self-closers of the interior doors to the Fitness Center and the waste dumpster area to decrease door-opening force of these doors to no more than the 5-lb. maximum allowed.
- 5) Respondents maintain that the doorways of walk-in closets are actually compliant because they have wire shelves that allow for clothes to be hung on hangers, and the distance to the clothes hangers is less than

¹³ See Manual at page 7.12.

¹⁴ See Appendix A, Photo 7C.

the 21”-maximum reach-depth allowed by ANSI 1986 clothes-hanger rods in closets.¹⁵ Respondents also maintain the doorway to the bathroom in Unit 719 is compliant because – as based on photographs they submitted to ICRC – the clear opening width is 31 5/8”.

However, Respondents will retrofit the doorways to the other doorways reported as being less than the 31 5/8”-minimum width in the table on page 5 of the current agreement – to widen these doorways and bring them into compliance with the 31 5/8”-minimum width requirement.

6) Respondents maintain that the thermostats measured during both the test and inspection of Eagle View are not operable thermostats but are instead “read only” units, which only sense the temperature in the unit. Respondents stated that the thermostats with control buttons are actually installed in compliance with the 48”-maximum height and will submit photos to document their height. Respondents submitted photographs indicating the height of the thermostat is 54” and the height of the ventilation controls is 48”.

7) Respondents will paint the wall below and behind the kitchen sink in Unit 701 in compliance with the requirements for removable cabinets from the FHA and the ICRA.

8) Respondents will relocate the range further away from the adjacent corner in Units 718 and 719, so that the midline of the range will be no less than 24” away from the adjacent opposing countertop, and provide sufficient clear floor space for a parallel approach by someone in a wheelchair.

9) Respondents will retrofit – in a manner currently being determined – the bathroom sink in Unit 701, such that the midline of the sink will be no less than 15” away from the adjacent wall, and provide sufficient clear floor space to allow for a forward approach to the sink, which is possible because there is sufficient knee/toe space under the sink.

10) Respondents maintain there is no requirement indicated in the Manual about the height for towel bars. Therefore, Respondents will notify current and future tenants about contacting Management to have them install a towel hook in the bathrooms of all units with bathrooms that have towel bars with heights exceeding the 54”-maximum height.

Assessment of Deficiencies:

According to the construction plans submitted by Respondents, 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].¹⁶ Neither the IBC 2012 nor the ANSI 2009 is one of the safe harbors accepted by HUD.¹⁷ 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 fitness room, community gardens, dumpsters, coffee-bar area, and the

¹⁵ Federal Register, Vol. 55, No. 116, Friday, June 15, 1990, page 24458., Section 4.23.

¹⁶ <https://codes.iccsafe.org/content/IBC2012/chapter-35-referenced-standards> (Last visited on Jan. 24, 2019).

¹⁷ <http://www.fairhousingfirst.org/faq/safeharbors.html> (Last visited on Jan. 24, 2019).

wall-mounted mailbox units adjacent to the main entrance are governed by the FHA since they are only for use by the residents of Eagle View and their guests. The ADA will only be referenced in the current report for the public areas, which include lobby area, elevator, interior hallways, and both the covered and uncovered parking areas.¹⁸ Finally, the requirements 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 agrees with Respondents’ proposal to either (i) restripe the uncovered parking spaces and access aisles reserved for use by persons with disabilities, as necessary, so as to increase the width of the north access aisle to no less than 96” – as measured in the manner required in Section 502.1 of the ADAAG; or (ii) remove the bench located near in the access aisle serving the parking space designated as reserved for use by persons with disabilities to increase the usable width of the access aisle to 97 ½” – which will result in an access aisle and parking space that is compliant with the 96”-minimum width required at van-accessible parking spaces and access aisles.

ICRC will require this retrofit to be completed within 90 days from the date of the Closing Letter from ICRC.

2) ICRC agrees with Respondents’ proposal to install signage meeting the requirements from Section 502.6 of the ADAAG at the four parking spaces reserved for use by persons with disabilities, including the signage designating either the south covered parking space that is adjacent to the main entrance or the south uncovered parking space as “Van-Accessible.”

ICRC will require this retrofit to be completed within 90 days from the date of the Closing Letter from ICRC.

3) ICRC concurs with Respondents determination that – after exploring all possible locations for additional mailboxes at the subject property – there are no available locations for installing additional mailboxes because the only possible locations would have either fundamentally altered the use of the common areas for the tenants, or included the surface slopes the would have exceeded either the 5%-maximum running-slope or the 2%-maximum cross slope.

Therefore, ICRC agrees with Respondents proposal to send notices to current and future tenants advising them about the option to have Management swap out for a mailbox compartment at a reachable height if required because of a disability. ICRC will also require Respondents to permanently install the same notice permanently in the area adjacent to the wall-mounted mailbox units.

ICRC will require the notices to tenants and the permanent notice to be installed adjacent to the wall-mounted mailbox units within 60 days from the date of the Closing Letter from ICRC.

¹⁸ 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. Therefore, since the 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.”

4) ICRC agrees with Respondents proposal to adjust the self-closers of the interior doors to the Fitness Center and the waste dumpster area, so as to decrease door-opening force of these doors to no more than the 5-lb. maximum allowed.

ICRC will require these retrofits to be completed within 90 days from the date of the Closing Letter from ICRC.

5) ICRC concurs with Respondents' determination that the doorways of walk-in closets are actually compliant because they have wire shelves that allow for clothes to be hung on hangers, and the distance to the clothes hangers is less than the 21"-maximum reach-depth allowed by ANSI 1986 clothes-hanger rods in closets. ICRC also concurs with Respondents' determination that the doorway to the bathroom in Unit 719 is compliant because – as based on their photographs – the clear opening width is 31 5/8".

ICRC agrees with Respondents' proposal to retrofit the remaining doorways reported as being less than the 31 5/8"-minimum width in the table on page 5 of the current agreement – to widen these doorways and bring them into compliance with the aforementioned minimum width requirement.

ICRC will require these retrofits to be completed within 18 months from the date of the Closing Letter from ICRC, or sooner if requested by a tenant with a disability.

6) ICRC disagrees with Respondents' claim that the thermostat exceeding the 48"-maximum height requirement at each inspected unit is a read-only thermostat, and the operable thermostat is compliant with the 48"-maximum height requirement, as based on their photos. Although Respondents' claim that the 48"-maximum height requirement is limited to the operable portion of environmental controls is accurate, the additional information and photos submitted by Respondents indicate that the environmental controls installed at or below the 48"-maximum height are actually ventilation controls, and the thermostat in the photo from Respondents is installed at a 53"-height that exceeds the 48"-maximum height.

Therefore, the thermostats are out of compliance with the 48"-maximum height requirement. ICRC will require the thermostats to be relocated at or below the 48"-maximum height allowed by the Manual. ICRC will require these retrofits to be completed within one year from the date of the Closing Letter from ICRC, or sooner if requested by a tenant with a disability.

7) ICRC agrees with Respondents' proposal to paint the wall below and behind the kitchen sink in Unit 701 in compliance with the requirements for removable cabinets from the FHA and the ICRA. ICRC will require Respondents to verify that the wall surface behind the kitchen sink in each of the 41 remaining "B" units is fully finished, and finish painting the wall of any kitchen with walls that are not completely finished.

ICRC will require the verifications – and if necessary, this retrofit – to be completed within one year from the date of the Closing Letter from ICRC, or sooner if requested by a tenant with a disability.

8) ICRC agrees with Respondents' proposal to relocate the range further away from the adjacent opposing countertop in Units 718 and 719, so that the midline of the range will be no less than 24" away from the adjacent opposing countertop, and provide sufficient clear floor space for a parallel approach by someone in a wheelchair. ICRC will require Respondents to also complete the same retrofit at any of the 11 other "C" and "E" units, and at any of the 23 other "E" units where they verify that the midline of the range is less than 24" away from the adjacent opposing countertop.

ICRC will require these retrofits to be completed within 18 months from the date of the Closing Letter from ICRC, or sooner if requested by a tenant with a disability.

9) ICRC agrees with Respondents' proposal to retrofit – in a manner currently being determined by Respondents – the bathroom sink in Unit 701, such that the midline of the sink will be no less than 15” away from the adjacent wall, and provide sufficient clear floor space to allow for a forward approach to the sink, which is possible because there is sufficient knee/toe space under the sink. ICRC will require Respondents to complete the same retrofit in any of the 41 other “B” units that Respondents verify has bathroom sink with a midline that is less than 15” away from the adjacent wall.

ICRC will require the verifications – and if necessary, this retrofit – to be completed within 18 months from the date of the Closing Letter from ICRC, or sooner if requested by a tenant with a disability.

10) ICRC acknowledges that although it makes sense for towel bars and hooks to be a reachable feature of bathrooms, there is no specific direct requirement in the Manual for the maximum reachable height of towel bars and hooks. Therefore, ICRC does not require Respondents to correct the height of the towel bars/hooks because of the lack of a specific requirement for the maximum height.

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 agree that:

(a) Jason Eveland and David Voss will receive training on the accessible design and construction requirements of State and Federal Fair Housing Laws within 180 days from the date of the Closing Letter from ICRC. 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, this term may be fulfilled by scheduling a training session with ICRC via email at BuilItRightIowa@iowa.gov, or by attending 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>.

(b) Send documentation to ICRC, verifying the fair housing / accessible design and construction training has been completed, within ten days of completing the training.

15) Respondents agree all persons identified in paragraph 14 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 the persons identified in paragraph 14 of the current section 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.

iii. They acknowledge their responsibility to ensure all design and construction at all future covered properties will be performed by their employees and/or agents in compliance with the Seven Main “Design Requirements of the Guidelines.”

(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.

Required Retrofits

16) Respondents agree to make the following retrofits to the subject property:

Accessible and Usable Public and Common Use Areas – Van-Accessible Parking Space and Access Aisle

(a) The parties agree that either the access aisle serving the covered parking space that is adjacent to the main entrance *or* the south uncovered parking space and the adjoining access aisle – as reported in the table on page 3 of the current agreement – are too narrow because their measured widths are less than the minimum widths required for “Van Accessible” parking spaces and access aisles, as specified in Sections 502.2 and 502.3 of the ADAAG.

(b) Respondents agree they will either remove the bench from the access aisle serving the covered parking space or restripe the uncovered parking space and the adjoining access aisle – as described in “(a)” paragraph above – such that the widths of the parking space and access aisle are each no less than 96”, as specified in Sections 502.2 and 502.3 of the ADAAG, which is available online at: <https://www.ada.gov/regs2010/2010ADASTandards/2010ADASTandards.pdf>.

(c) Respondents agree that they will comply with the retrofit required in paragraph “(b)” above by measuring the widths of the north parking space and access as required in Section 502.1 of the ADAAG.

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

Accessible and Usable Public and Common Use Areas – Accessible Parking Signage

(a) The parties agree that (i) the four parking spaces referenced in the table on page 3 of the current agreement are missing the required signage designating them as reserved for use by persons with disabilities; *and* (ii) that either the south covered parking space that is adjacent to the main entrance *or* the south uncovered parking space – which is dependent upon which of these parking features Respondents retrofit as required in the previous retrofit term – is also missing the signage designating it as “Van-Accessible,” as required in Section 502.6 the 2010 ADAAG.

(b) Respondents agree they will install (i) the signage designating the four parking spaces in the table on page 3 of the current agreement; *and* (ii) also include “Van Accessible” signage at the spaces described in “(a)” paragraph above such that the bottom edge of the sign is no less than the 60”-minimum required in Section 502.6 of the 2010 ADAAG.

(c) Respondents agree to complete the retrofit required in the current subsection within 90 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 five rows of all wall-mounted mailbox units exceed the 54"-maximum height allowed by ANSI 1986.
- (b) Respondents agree they will permanently install a written notice in a conspicuous location adjacent to the wall-mounted mailbox units, which will inform tenants with mailbox compartments assigned in the top five rows of mailbox compartments of each wall-mounted mailbox unit about the following concepts:
- a. Tenants with mailboxes assigned in the top five rows of the wall-mounted mailbox units – who are not able to reach their mailbox compartment because of a mobility impairment – have the option to swap mailbox compartments with a tenant who does not have a mobility impairment, and who has a mailbox compartment in the rows below the top five rows.
 - b. The tenants described in paragraph "a" immediately above are advised to contact Management arrange for their mailbox compartments to be swapped in the manner described in "a." paragraph above such that their new mailbox location for the tenant with a mobility impairment will have a keyhole with a midline at a maximum height of 54".
- (c) Respondents agree the written notification referred to in paragraph "(b)" will be worded in the following manner:

NOTICE TO RESIDENTS

Please notify the leasing office if you have a mailbox in the top five rows and are unable to access it. Management will assign you a new mailbox for your use during your residency at Eagle View.

- (d) If Respondents prefer to change the wording for the written notification required to in paragraph "(b)" and described in paragraph "(c)" above, Respondents agree to send the alternate wording of the notice to ICRC via email at emigdio.lopez-sanders@iowa.gov for review within 30 days from the date of the Closing Letter from ICRC. ICRC agrees to review the alternate wording and respond to Respondents within three business days from the date of the email from Respondents.
- (e) Respondents agree they will deliver the same notice required in paragraph "(b)" above to each current tenant with a mailbox compartment assigned in the top five rows of mailboxes at each of the kiosks.
- (f) Respondents agree they will include the same notice required in paragraph "(b)" above with the documents given to new tenants at the time each lease agreement is signed for all future tenants occupying units with mailbox compartments assigned in the top five rows at the wall-mounted mailbox units.
- (g) Respondents agree they will install the notice adjacent to the mailbox kiosks *and* deliver the notice to current tenants required in paragraphs "(b)" and "(e)" above 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 Fitness Center and the waste dumpsters exceed the 5-lbs. maximum force allowed by ANSI 1986.

(b) Respondents agree to adjust the self-closers at the doors to the Fitness Center and the waste dumpsters to reduce the opening force at these doors to no more than 5 lbs. to bring them into compliance 5-lbs. door-opening force maximum allowed by ANSI 1986.

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

Usable Doors – Clear Opening Width for Secondary Doorways

(a) The parties agree the following interior doorways of the inspected units – as reported on page 5 of the current agreement and as described on paragraph 5 on page 9 of the current agreement – have a clear opening width that is narrower than the 31 5/8”-minimum required by the Manual: bathroom of Units 701, 710, and 718; and bedroom of Unit 719.

(b) Respondents agree they will replace the existing door hinges with swing-clear hinges – described in page A.8 in Appendix A of the Manual available and is available online at <https://www.huduser.gov/portal/publications/pdf/fairhousing/fairappA.pdf> – at the non-compliant interior doorways in all the units reported on page 5 of the current agreement to increase the door-opening width to $\geq 31 \frac{5}{8}$ ”.

(c) If a 31 5/8”-minimum clear opening width is not achieved at any of the non-compliant doors after replacing the hinges as described in (b) paragraph above, Respondents agree they will also retrofit and widen the doorways that are still non-compliant to achieve the 31 5/8”-minimum clear opening width.

(d) Respondents agree to measure the similarly situated interior doorways of all other units as. If the clear-opening width of any of the interior doors at the units inspected by Respondents is $< 31 \frac{5}{8}$ ”, then Respondents agree to retrofit the interior doorways in the manner as described in paragraphs (b) and (c) above to bring them into compliance with the ICRA and FHA.

(d) Respondents agree to complete the retrofits described in the current subsection within 18 months from the date of the Closing Letter from ICRC, or sooner if requested by a tenant with a disability.

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

(a) The parties agree the height to the top control buttons of the thermostats in all inspected units was measured at no less than 53”, which exceeds the 48”-maximum height allowed by the Manual.

(b) Respondents agree they will relocate the thermostats in all inspected units at a height that does not exceed the 48”-maximum allowed by the Manual, as measured to the top operable buttons.

(c) Respondents agree to complete the retrofit described in the current subsection within one year from the date of the Closing Letter from ICRC, or sooner if requested by a tenant with a disability.

Usable Kitchens – Sinks

(a) The parties agree the distance from the midline of the kitchen sink to the nearest obstruction in Units 701 [B] was measured 16 1/4”, which is (i) more than the 15”-minimum required by the Manual for a forward approach, which is possible if the cabinets under the sink are removable; and (ii) less than the 24”-

minimum required by the Manual for a parallel approach that is the only possible approach by someone using a wheelchair if the cabinets are not removable.

(b) The parties agree the cabinets underneath the kitchen sinks in these units are removable *only* as long as the wall behind and the flooring underneath the sink are finished with the same type and color of wall paint, and same style of flooring as the currently exposed surfaces.

(c) The parties agree the wall surface behind and underneath the kitchen sink in Unit 701 is not entirely finished.

(d) Respondents agree to finish painting the unfinished wall surface described in paragraph“(c)” above, to match the exposed surfaces adjacent to the sink and bring the kitchen sink into compliance with the ICRA and FHA.

(e) Respondents agree to inspect the wall surface underneath and behind the kitchen sink in the other 41 “B” Type units, and, if necessary, complete the same retrofit as required in paragraph “(d)” above.

(f) Respondents agree to complete the retrofit described in the current subsection within one year from the date of the Closing Letter from ICRC, or sooner if requested by a tenant with a disability.

Usable Kitchens – Clear Floor Space at Range

(a) The parties agree the distance from the midline of the range to the nearest obstruction in was measured at 16 ¼” in Unit 718 and at 16 ½” in Unit 719, which is less than the 24”-minimum required by the Manual.

(b) Respondents agree they will modify the kitchen base cabinets and counters adjacent to the range at Units 718 and 719 – and in all similarly situated “C,” “E,” and “D”-type units – and then move the range further away from the nearest obstruction to increase the distance from the midline of the range to the nearest obstruction to no less than the 24”-minimum required in the Manual.

(c) Respondents agree they will complete the retrofit described in the current subsection within 18 months from the date of the Closing Letter from ICRC, or sooner if requested by a tenant with a disability.

Usable bathrooms – Bathroom Sinks

(a) The parties agree the midline of the sink in the bathroom of Unit 701 – which has removable cabinets – is 13 ⅞” away from the adjacent wall, which is less than 15”-minimum for bathroom sinks with removable cabinets, as required by the Manual.

(b) Respondents agree to submit a retrofit proposal to ICRC via email at emigdio.lopez-sanders@iowa.gov to increase the distance from the midline of the sink to the adjacent wall to no less than 15” – as required in the Manual for sinks with sufficient knee and toe clearance to allow for a forward approach by persons using a wheelchair – no more than 60 days from the date of the closing letter from ICRC, and allow ICRC three business days from the submittal date of Respondents’ retrofit-proposal email to determine whether the proposed retrofit is approved.

(c) Respondents agree they will measure the distance between the midline of the sink and the adjacent wall in the other 41 similarly situated “B”-type units.

(d) If the midline of the sink is away from the adjacent wall by less than the 15” minimum required by the Manual, Respondents agree to retrofit the noncompliant bathroom sinks in the same manner as the accepted-retrofit proposal email from ICRC – which is described in (b) paragraph above – to bring them into compliance with the ICRA and FHA.

(e) Respondents agree to complete the retrofit described in the current subsection at Unit 701 and any other non-compliant “B”-type units within 18 months from the date of the ICRC-approved retrofit proposal email, or sooner if requested by a tenant with a disability.

Retrofit Requests

17) Respondents agree to notify all current tenants, via a letter, within 30 days from the date of the Closing Letter from ICRC about the option to have any of the above-required retrofits performed in their unit because of a disability for at no charge to the tenants.

18) 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 30 days from the date the request is submitted by the tenant.

19) Respondents agree that those tenants who request 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 Reports

20) Respondents agree to notify ICRC when they have completed the required 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 retrofits have been completed in all 120 units.

21) Respondents agree to send a copy to ICRC of all written requests for retrofits that they receive from tenants in response to the written notice sent to tenants that is required in Term 17.

22) Respondents agree to retain copies of any written objections to the retrofits required in this agreement which may be received from tenants for a period of one year after the date of the Closing Letter from the ICRC. Upon request by ICRC, Respondents shall, within 30 calendar days of such request, provide copies of these written objections. Such request shall not be made by ICRC more than 15 months after the date of the Closing Letter.

23) Respondents agree, as the required 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.

24) Respondents agree to send all reports and written statements required in this agreement to ICRC (Attn: Emigdio Lopez-Sanders; Iowa Civil Rights Commission, 400 East 14th Street, Des Moines, Iowa 50319-0201, OR via email at emigdio.lopez-sanders@iowa.gov).

25) 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 properties 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 retrofits as specified in this agreement.

Eagle View Lofts, LLC
RESPONDENT

Date

The Hansen Company, Inc.
RESPONDENT

Date

SlingShot Architecture, Inc.
RESPONDENT

Date

Angela Jackson, Commissioner
COMPLAINANT

Date

Linda Grathwohl, Interim Executive Director
IOWA CIVIL RIGHTS COMMISSION

Date