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16 UNITED STATES DISTRICT COURT FOR THE
 CENTRAL DISTRICT OF CALIFORNIA
 17 (WESTERN DIVISION)

18 INDEPENDENT LIVING CENTER OF
 SOUTHERN CALIFORNIA, a California non-
 19 profit corporation, *et al.*

Plaintiffs,

21 vs.

22 CITY OF LOS ANGELES, CALIFORNIA, a
 California municipal corporation, *et al.*,

Defendants.

) CASE NO. CV 12-0551 SJO
 (PJW)

) **JOINT CONFERENCE OF**
PARTIES REPORT

) Judge: Hon. S. James Otero
 Date: November 26, 2013
 Time: 8:30 a.m.
 Courtroom: Room 1, 2nd Floor

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1 Pursuant to Rule 26(f) of the Federal Rules of Civil Procedure, Local Rule 26-
2 1 and the Court’s Standing Order, Plaintiffs Independent Living Center of Southern
3 California, Fair Housing Council of San Fernando Valley and Communities Actively
4 Living Independent and Free and Defendant/Cross-Claimant City of Los Angeles
5 (“City”), Defendant/Cross-Defendant CRA/LA, a Designated Local Authority,
6 Successor to Community Redevelopment Agency for the City of the Los Angeles
7 (“CRA/LA”) Defendant Oversight Board for the CRA/LA Designated Local
8 Authority (“Oversight Board”), and Defendants 4651 Huntington, LP, New Tierra
9 Del Sol LP, Amistad Plaza Limited Partnership, Imani Fe, LP, Menlo Park, Penny
10 Lane Centers, 105 East I St. LP, 12129 El Dorado Avenue, L.P., 505 Bonnie Brae
11 Partners, Adams 935, L.P, AMCAL Montecito Fund, L.P, Andalucia Senior
12 Apartments, L.P, Ardmore 959 Partners, Asturias Senior Apartments, L.P., B.S.
13 Broadway Village II, L.P., Behringer Harvard NoHo, LLC, Buckingham Senior
14 Apartments, L.P., Cantabria Senior Apartments, L.P., Carondelet Court Partners
15 L.P., Central Village apartments, L.P., Decro Orion Apartments L.P., Decro Osborne
16 Apartments L.P., East LA Community Corporation, Eastside Village, L.P.,
17 Esperanza Community Housing Corp., Eugene Hotel, L.P. , FAME West 25th
18 Street, L.P., Far East Building, L.P. , Grandview Nine, L.P., Hart Village, L.P., Las
19 Margaritas, L.P., Los Angeles Housing Partnership, Inc., Los Cuatro Vientos, L.P.,
20 Morgan Place, L.P., New Genesis Apartments L.P., NoHo Senior Villas LP, P G
21 Housing Partners, L.P., Palm Village Senior Housing Corp., Palomar Apartments,
22 L.P., Redrock Noho Residential, LLC, Renato Apartments, L.P., Rittenhouse
23 Limited Partnership, Selma-Hudson Community Limited Partnership, Seven Maples,
24 L.P., Sherman Village Apartments, L.P., Sherman Way Community Housing, L.P.,
25 WA Court, L.P., Watts/Athens Preservation XVII, L.P., West Angeles Villas, LP,
26 Western / Carlton II, L.P., Yale Terrace Apartments L.P by and through their
27 respective counsel, submit the following Conference of Parties’ Report.

28 On April 19, 2012, Plaintiffs, the City, and the CRA/LA submitted a previous

1 Joint Report of Early Meeting of Counsel. The Court did not issue a scheduling
2 order because Plaintiffs sought to amend the complaint. Relevant portions of the
3 April 19, 2012 Joint Report are repeated here and updated for the convenience of the
4 Court.

5 **I. CONFERENCE OF PARTIES**

6 The second conference of parties was held on November 5, 2012.

7 **II. PARTIES AND THEIR COUNSEL WHO ATTENDED CONFERENCE**
8 **OF PARTIES**

9 Plaintiffs Independent Living Center of Southern California, Fair Housing
10 Council of San Fernando Valley, and Communities Actively Living Independent
11 and Free were represented by Autumn M. Elliott, Dara L. Schur, Michael G. Allen,
12 and Scott Chang.

13 Defendant/Cross-Claimant City of Los Angeles was represented by Mark
14 Byrne.

15 Defendant/Cross-Defendant CRA/LA was represented by Melissa Daugherty.

16 Defendant Oversight Board for the CRA/LA, a Designated Local Authority,
17 was represented by Andrew Ross.

18 Owner Defendant s 4651 Huntington, LP and New Tierra Del Sol LP were
19 represented by Roberto Lara. Owner Defendant Amistad Plaza Limited Partnership
20 was represented by Scott Moore. Owner Defendant Imani Fe, LP was represented by
21 Mark Austin of Rutan & Tucker, LLP. Owner Defendant Menlo Park was
22 represented by Mark Hurwitz. Owner Defendant Penny Lane Centers was
23 represented by Jeff Neer and Derrick Lowe of Baker, Keener & Nagra. Owner
24 Defendant 105 East I St., LP was represented by Christopher Warne.

25 Owner Defendants 12129 El Dorado Avenue, L.P., 505 Bonnie Brae Partners,
26 Adams 935, L.P, AMCAL Montecito Fund, L.P, Andalucia Senior Apartments,
27 L.P, Ardmore 959 Partners, Asturias Senior Apartments, L.P., B.S. Broadway
28 Village II, L.P., Behringer Harvard NoHo, LLC, Buckingham Senior Apartments,

1 L.P., Cantabria Senior Apartments, L.P., Carondelet Court Partners L.P., Central
 2 Village apartments, L.P., Decro Orion Apartments L.P., Decro Osborne Apartments
 3 L.P., East LA Community Corporation, Eastside Village, L.P., Esperanza
 4 Community Housing Corp., Eugene Hotel, L.P. , FAME West 25th Street, L.P., Far
 5 East Building, L.P. , Grandview Nine, L.P., Hart Village, L.P., Las Margaritas, L.P.,
 6 Los Angeles Housing Partnership, Inc., Los Cuatro Vientos, L.P., Morgan Place,
 7 L.P., New Genesis Apartments L.P., NoHo Senior Villas LP, P G Housing Partners,
 8 L.P., Palm Village Senior Housing Corp., Palomar Apartments, L.P., Renato
 9 Apartments, L.P., Rittenhouse Limited Partnership, Selma-Hudson Community
 10 Limited Partnership, Seven Maples, L.P., Sherman Village Apartments, L.P.,
 11 Sherman Way Community Housing, L.P., WA Court, L.P., Watts/Athens
 12 Preservation XVII, L.P., West Angeles Villas, LP, Western / Carlton II, L.P., Yale
 13 Terrace Apartments L.P were represented by Theresa Kitay (“the Group of 44 Owner
 14 Defendants”).

15 For purposes of the Rule 26 conference of the parties, Owner Defendant
 16 Redrock Noho Residential, LLC was also represented by Ms. Kitay. A substitution
 17 of counsel for Redrock Noho Residential, LLC (substituting William J. Goines for
 18 Ms. Kitay) was granted by the Court on November 8, 2012 (Dkt. 199).

19 **III. STATEMENT OF THE CASE**

20 **A. PLAINTIFFS’ STATEMENT OF THE CASE**

21 Plaintiffs Independent Living Center of Southern California (“ILCSC”), a
 22 non-profit independent living center for people with disabilities; Fair Housing
 23 Council of San Fernando Valley (“FHC/SFV”), a non-profit, fair housing
 24 organization; and Communities Actively Living Independent and Free (“CALIF”),
 25 a non-profit independent living center, allege that the City of Los Angeles (the
 26 “City”) the Community Redevelopment Agency of the City of Los Angeles
 27 (“Agency”) and its successors, including the CRA/LA, and the Oversight Board for
 28 the CRA/LA Designated Local Authority (“Oversight Board”) (collectively referred

1 to as the “Government Defendants”), have failed to ensure that housing funded,
2 developed, or regulated by the Agency is accessible to people with disabilities as
3 required under federal and state disability rights laws, including Section 504 of the
4 Rehabilitation Act, Title II of the Americans with Disabilities Act (“ADA”), and
5 California Government Code § 11135. Plaintiffs allege that as a result of this failure,
6 dwelling units in those housing developments have been rendered unavailable to
7 people with disabilities.

8 By the City’s own accounting, people with physical limitations (including
9 two-thirds of seniors who have disabilities) need accessible housing, and there is a
10 large, unmet need for affordable, accessible housing in Los Angeles. In fact, the
11 City estimates that there are hundreds of thousands of individuals and families in Los
12 Angeles who require accessible, affordable housing but do not have it.

13 Plaintiffs allege the Agency received hundreds of millions of dollars in
14 public funding via the City and directly from the state and federal governments for
15 the purpose of developing affordable housing and for other purposes. The City
16 received direct funding from the state and federal governments. As a result of their
17 receipt of federal dollars, the City, and Agency and its successors, have an
18 obligation pursuant to federal law to ensure that the Agency’s housing program, as a
19 whole, is accessible to people with disabilities.

20 In addition, Plaintiffs allege the Government Defendants have allocated these
21 and other funds to build or substantially alter hundreds of apartment complexes
22 containing thousands of units. Under federal and state law, apartments and
23 condominium developments funded by public funds must be accessible to people in
24 wheelchairs and those who are vision or hearing impaired. The Government
25 Defendants have failed to take appropriate action to ensure that apartment complexes
26 built with state and federal funds actually comply with the accessibility requirements
27 of federal and state civil rights laws or that meaningful access to such housing is
28 otherwise provided.

1 Plaintiffs learned that the U.S. Department of Housing and Urban
2 Development had issued a Letter of Findings of Non-Compliance (“HUD
3 Letter”) to the City and the Agency that provides additional information
4 about the nature and extent of the accessibility violations at housing
5 developments that received federal financial assistance through the
6 Agency

7 Plaintiffs allege these violations of federal and state civil rights deny people
8 with disabilities severely needed accessible housing.

9 Plaintiffs have joined the Owner Defendants as parties for purposes of relief.

10 **B. GOVERNMENT DEFENDANTS’ STATEMENT OF THE CASE**

11 The Agency had public funding via the City and directly from the state and
12 federal governments for the purpose of developing affordable housing. It is unknown
13 whether the apartments alleged in the pleading were recipients of Agency funding.
14 Defendants allege that the Agency’s housing program, as a whole, is accessible to
15 people with disabilities. The CRA/LA and the City of Los Angeles allege they were
16 in compliance with all legal obligations during the times alleged; that they never
17 received notice of any need for accommodation; that Plaintiffs do not have a private
18 cause of action under the Rehabilitation Act; and that Plaintiffs’ claims are without
19 merit, or are the fault of entities/individuals other than the Agency and the City of
20 Los Angeles

21 The City has given funding to the Agency on a project-by-project basis. The
22 source of funding given to the Agency by the City varied. It is unknown whether the
23 properties alleged in the pleading were among the projects the City gave funding to
24 the CRA for; the City is in the process of investigating this. The City denies that it
25 gave funding to the CRA for a Redevelopment Housing Program at the Agency, or
26 that such a program even existed. The City of Los Angeles alleges they were in
27 compliance with all legal obligations during the times alleged; that they never
28 received notice of any need for accommodation; and that Plaintiffs’ claims are

1 without merit, or are the fault of entities/individuals other than the City of Los
2 Angeles.

3 Plaintiffs have failed to allege any act by the City establishing that Plaintiffs or
4 their clients were denied benefits solely because of their disability. Indeed, a fair
5 reading of the SAC necessarily leads to the conclusion that the primary reason some,
6 if not many, of Plaintiffs' clients cannot find the housing they desire is a matter of
7 arithmetic. Hence, as undesirable and regrettable as this situation is, the reality is
8 that there is not enough accessible housing in Los Angeles through no fault of the
9 CRA/LA or the City. This fact is simply not actionable in the manner that Plaintiffs
10 would like.

11 Moreover, Plaintiffs fail to allege that they ever sought a reasonable
12 accommodation from the City or that the Plaintiffs ever lodged complaints with the
13 City. Additionally, Plaintiffs sue the City because the defendants have allegedly
14 failed "to take steps to ensure that the Redevelopment Housing Program is accessible
15 to people with disabilities or that any accessible units that exist are made available to
16 people with disabilities. The City denies the existence of a Redevelopment Housing
17 Program that it funded or that any such program exists at the Agency.

18 Plaintiffs further assert, without providing any supportive facts, that the City
19 has denied meaningful access to accessible housing to people with disabilities, aided
20 or perpetuated discrimination against people with disabilities, and used methods of
21 administration that discriminated against people with disabilities and limits people
22 with disabilities from enjoying housing. In addition to this claim being factually
23 void, Plaintiffs cannot assert a claim against CRA/LA or the City as a non-owner of
24 any of the buildings at issue. Both the federal and state statutes are aimed at those
25 who own, manage or control the subject properties. (See, e.g., Cal. Gov. Code §
26 12955(a) (2012) (unlawful for any "owner of any housing accommodation" to
27 discriminate because of disability), Id. at § 12927(e) (2012).) The City is not an
28 owner and/or property manager of the properties in which Plaintiffs allege that the

1 City failed to ensure were accessible to disabled individuals. Even under agency
2 principles, the City, as non-owner and non-managers that do not exercise active
3 control over the buildings, fall outside the ambit of these laws. This fact is virtually
4 conceded by Plaintiffs by virtue of their Rule 19 inclusion of the owner defendants.
5 Put another way, if the City could remedy any proven deficiencies at the subject
6 properties, the owner defendants would need not be named at all. Notably, no
7 binding authority exists to hold a redevelopment agency, or similar entity, liable
8 under section 504 for the acts of the developers.

9 Plaintiffs' SAC complains of the failure to enforce certain HUD regulations.
10 Thus, Plaintiffs imply that the City is duty-bound to Plaintiffs to ensure that the
11 housing developments they fund comply with applicable law, including the HUD
12 regulations. At least two circuits have found that there is no private right to enforce
13 HUD regulations.

14 In *Three Rivers Ctr. for Indep. Living, Inc. v. Hous. Auth.*, 382 F.3d 412 (3d Cir.
15 2004), an individual and a non-profit corporation that reported that "many of its
16 clients have a hard time finding accessible and affordable housing" sued a housing
17 authority for declaratory and injunctive relief compelling the authority to comply
18 with HUD regulations. The Third Circuit held that "the Rehabilitation Act does not
19 provide a private right of action to enforce ... HUD regulations." (Id. at 425.) The
20 court noted that the HUD regulations that the plaintiffs sought to enforce "relate to
21 'institutional policy and practice, not individual instances of discrimination.'" (Id. at
22 429) Thus the court concluded that "[s]ection 504's implied right of action only
23 allows plaintiffs to enforce personal rights that the statute creates and not systemic
24 obligations." (Id. at 431.) Likewise, in *Taylor v. Housing Authority of New Haven*,
25 645 F.3d 152 (2d Cir. 2011), in which reference is made to *Three Rivers*, the Second
26 Circuit upheld the district court's determination that the HUD regulations at issue
27 could not be privately enforced.

28

1 The CRA/LA and the City of Los Angeles allege they were in compliance
2 with all legal obligations during the times alleged; that they never received notice of
3 any need for accommodation; and that Plaintiffs' claims are without merit, or are the
4 fault of entities/individuals other than the Agency and the City of Los Angeles."]

5 The City has filed a Motion to Dismiss the Plaintiffs' Second Amended
6 Complaint, and if it is not granted plans to pursue all defenses that are available to it
7 as well as counterclaims for equitable and contractual indemnity against both the
8 governmental and owner defendants.

9 Should the CRA/LA's Motion to Dismiss not be granted, CRA/LA plans to
10 pursue all defenses that are available to it as well as counterclaims for equitable and
11 contractual indemnity against the owner defendants.

12 Defendant Oversight Board contends it has no liability regarding Plaintiff's
13 allegations as it did not exist during the relevant time periods, has no successor or
14 independent liability for the acts of the Agency and lacks the statutory authority to
15 provide the relief sought by Plaintiffs in this matter.

16 **IV. PROCEDURAL STATUS**

17 The Complaint was filed on January 13, 2012. Defendants City of Los
18 Angeles and the Agency were served with the Complaint on January 13, 2012. The
19 City answered the Complaint and filed a Cross-Complaint against the Agency on
20 February 29, 2012. The CRA answered Plaintiffs' Complaint on April 3, 2012.

21 As of February 1, 2012, the Agency was dissolved as part of a fundamental
22 restructuring of redevelopment agencies in California created by ABx1 26 (2011),
23 and certain of the Agency's functions, obligations, liabilities, and assets were
24 transferred to successor agencies, specifically, a Designated Local Authority called
25 the "CRA/LA, a Designated Local Authority," operating under the supervision and
26 direction of a newly constituted Oversight Board. *See California Redevelopment*
27 *Association v. Matosantos*, 53 Cal.4th 231, 135 Cal.Rptr.3d 683 (December 29,
28 2011) (holding that ABx1 26 ('The Dissolution Act') is constitutional and

1 establishing a dissolution date of February 1, 2012 for all agencies.) ABx1 26 set up
2 a timetable and structure for dissolving redevelopment agencies and transferring
3 their remaining obligations to successor agencies. The Designated Local Authority
4 was established on or about February 1, 2012. California Assembly Bill AB 1484
5 (2012) further clarified the obligations of the various successor entities. *See*, revised
6 redevelopment statutes at Cal. Health & Safety Code §§ 34161, *et seq.* Specifically,
7 Health & Safety Code § 34179 specifically requires that an oversight board
8 consisting of seven members be established to approve and/or direct specified
9 activities of the successor agency(in this case the successor agency is Defendant
10 CRA/LA). On or about May 2, 2012, Defendant Oversight Board for the CRA/LA, a
11 Designated Local Authority, was officially constituted to assume the statutorily
12 specified functions.

13 On June 1, 2012, Plaintiffs filed a First Amended Complaint that named the
14 CRA/LA and the Oversight Board as Defendants and added additional nominal
15 defendants.

16 On August 20, 2012, Plaintiffs filed a Second Amended Complaint that
17 correctly named Behringer Harvard NoHo LLC as the current owner of one of the
18 housing projects in the Redevelopment Housing Program. The Court deemed
19 responses to the First Amended Complaint to be responses to the Second Amended
20 Complaint.

21 On September 20, 2012, the City, CRA/LA and the Oversight Board filed
22 motions to dismiss, which are currently pending before the Court.

23 The following Owner Defendants have answered the complaint: 105 East I St,
24 LP, Menlo Park, Imani Fe LP, Penny Lane Centers, 4651 Huntington, LP, New
25 Tierra Del Sol, LP, Amistad Plaza Partners Limited Partnership, Redrock NoHo
26 Residential, 12129 El Dorado Avenue, LP, 505 Bonnie Brae Partners, LP, Adams
27 935, LP, AMCAL Montecito Fund, LP, Andalucia Senior Apartments, LP, Ardmore
28 959 Partners, LP, Asturias Senior Apartments, LP, B S Broadway Village II, LP,

1 Behringer Harvard NoHo, LLC, Buckingham Senior Apartments, LP, Cantabria
2 Senior Apartments, LP, Carondelet Court Partners, LP, Central Village Apartments,
3 LP, Decro Orion Apartments, LP, Decro Osborne Apartments, LP, East LA
4 Community Corporation, Eastside Village, LP, Esperanza Community Housing
5 Corporation, Eugene Hotel, LP, FAME West 25th Street, LP, Far East Building, LP,
6 Grandview Nine, LP, Hart Village, LP, Hobart Heights Partners, LP, Las Margaritas,
7 LP, Los Angeles Housing Partnership, Inc., Los Cuatro Vientos, LP, Morgan Place,
8 LP, New Genesis Apartments, LP, NoHo Senior Villas, LP, P G Housing Partners,
9 LP, Palm Village Senior Housing Corp., Palomar apartments, LP, Redrock Noho
10 Residential, LLC, Renato Apartments, LP, Rittenhouse Limited Partnership, Selma-
11 Hudson Community Limited Partnership, Seven Maples, LP, Sherman Village
12 Apartments, LP, Sherman Way Community Housing, LP, WA Court, LP,
13 Watts/Athens Preservation XVII, LP, West Angeles Villas, LP, Western/Carlton II,
14 LP, Yale Terrace, LP.

15 The following Owner Defendants have not answered or otherwise appeared in the
16 case: Alexandria House Apartments, LP, CFLT-2618 West 7th St, LLC, Hoover
17 Seniors, LP, SF NoHo LLC, Vermont Seniors, Views at 270, LP

18 **V. SUBJECT MATTER JURISDICTION**

19 **A. PLAINTIFFS' STATEMENT OF JURISDICTION**

20 Plaintiffs allege the Court has jurisdiction over this action pursuant to 28
21 U.S.C. §§ 1331 and 1367. Plaintiffs' claims for declaratory and injunctive relief are
22 authorized by 28 U.S.C. §§ 2201, 2202 and 1343, and by Rules 37 and 65 of the
23 Federal Rules of Civil Procedure. Plaintiffs' claims for violations of California
24 state law concern the same actions and omissions that form the basis of Plaintiffs'
25 claims under federal law such that they are all part of the same case or controversy.
26 This Court has supplemental jurisdiction over those state law claims pursuant to 28
27 U.S.C. § 1367. This action for declaratory and injunctive relief arises in part under
28 Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 and Title II of the

1 ADA, 42 U.S.C. § 12132.

2 **B. DEFENDANT CRA/LA’S STATEMENT OF JURISDICTION**

3 To the extent Plaintiffs have alleged any claims under 29 U.S.C. section 794,
4 42 U.S.C. section 12131 and 42 U.S.C. section 3601, CRA/LA agrees the Court
5 would have subject matter jurisdiction under 28 U.S.C. section 1131 and 1434.
6 CRA/LA denies that supplemental jurisdiction under 42 U.S.C. section 1367 exists
7 over the claims alleged under California Government Code section 11135 due to the
8 absence of any allegations raising an inference that the prerequisites for the
9 California Government Tort Claims Act have been satisfied. CRA/LA denies that 42
10 U.S.C. section 12131 states a right to declaratory relief as this is a definitional
11 statute.

12 **VI. LEGAL CLAIMS AND DEFENSES**

13 **A. PLAINTIFFS**

14 Plaintiffs claim that they have been injured by the following:

- 15 1. The Government Defendants have violated Section 504 of the
16 Rehabilitation Act by denying people with disabilities meaningful access to
17 Defendants’ housing programs; aiding or perpetuating discrimination against people
18 with disabilities by providing significant assistance to developers of housing projects
19 that discriminate on the basis of disability by failing to provide accessible housing;
20 using methods of administration that have the effect of discriminating against people
21 with disabilities; and otherwise limiting people with disabilities from enjoying
22 housing built or developed by Defendants or the opportunity to obtain such housing.
- 23 2. The Government Defendants have violated Title II of the ADA by denying
24 people with disabilities meaningful access to Defendants’ housing programs; aiding
25 or perpetuating discrimination against people with disabilities by providing
26 significant assistance to developers of housing projects that discriminate on the basis
27 of disability by failing to provide accessible housing; using methods of
28 administration that have the effect of discriminating against people with disabilities;

1 and otherwise limiting people with disabilities from enjoying housing built or
2 developed by Defendants or the opportunity to obtain such housing.

3 3. The Government Defendants have violated Section 11135 of the California
4 Government Code by denying people with disabilities meaningful access to
5 Defendants' housing programs; aiding or perpetuating discrimination against people
6 with disabilities by providing significant assistance to developers of housing projects
7 that discriminate on the basis of disability by failing to provide accessible housing;
8 using methods of administration that have the effect of discriminating against people
9 with disabilities; and otherwise limiting people with disabilities from enjoying
10 housing built or developed by defendants or the opportunity to obtain such housing.

11 4. The Government Defendants have violated the Fair Housing Act by their
12 policy or practice of failing to act to ensure that housing projects within the
13 Redevelopment Housing Program are physically accessible, which has a disparate
14 impact on people with disabilities and resulted in otherwise making housing
15 unavailable because of disability; discriminating in the terms, conditions and
16 privileges of the rental of a dwelling because of disability; discouraging people with
17 disabilities from inspecting, purchasing or renting a dwelling because of disability;
18 and limiting the use of privileges, services or facilities associated with a dwelling
19 because of disability.

20 **B. DEFENSES**

21 i. **The City of Los Angeles**: The City has filled a Motion to Dismiss the
22 Plaintiffs' Second Amended Complaint, and if it is not granted plans to pursue all
23 defenses that are available to it as well as counterclaims for equitable and contractual
24 indemnity against both the governmental and owner defendants.

25 If the City is not dismissed as a Party to this action it will include, among the
26 legal claims it is considering pursuing are: that the no Federal Housing Funds were
27 transferred to by the City to the Agency for the properties at issue, the City did not
28 owe the Plaintiffs a duty to monitor, and the Plaintiffs have not suffered an injury.

1 This is not an exhaustive list of defenses. This list is not exhaustive and the City
2 reserves the right to supplement this list after a ruling on the Motion to Dismiss that
3 is currently pending.

4 ii. **The CRA/LA:** The CRA/LA has filed a Motion to Dismiss the Plaintiffs'
5 Second Amended Complaint, and if it is not granted plans to pursue all defenses that
6 are available to it as well as counterclaims for indemnification against the owner
7 defendants.

8 If this CRA/LA is not dismissed as a Party to this action, it will include, but
9 will not be limited to, the following defenses:

- 10 1. Failure to State a Claim;
- 11 2. The Agency's services, programs and activities in question in this
12 action, when viewed in their entirety, are accessible to persons with disabilities;
- 13 3. The Agency has provided reasonable access to its services, programs
14 and activities;
- 15 4. Plaintiff's requested modifications of policies, practices or procedures
16 are unreasonable and/or unnecessary to avoid discrimination on the basis of
17 disability;
- 18 5. The Agency has completely or substantially complied with all
19 applicable requirements;
- 20 6. The Agency is not obligated to remove the barriers alleged in the
21 complaint to the extent that the facilities at issue were constructed and/or modified
22 before the effective date of any law of regulation prohibiting the existence of any
23 such alleged barrier;
- 24 7. The relief sought by the complaint would result in an undue financial or
25 administrative burden;
- 26 8. Plaintiffs' injury or injuries, if any, was/were caused by third parties
27 acting outside the scope of agency, employment or control of the Agency, including
28 without limitation third parties who own or control the property on which Plaintiffs

1 seek remediation or third parties who own or control adjoining property;

2 9. Plaintiffs are not entitled to the injunctive relief sought against CRA/LA
3 as they failed to join necessary parties to the action to effect such relief, including
4 without limitation third parties who own or control the property on which Plaintiffs
5 seeks remediation or third parties who own or control adjoining property;

6 10. Plaintiffs are not entitled to recover the damages sought in the
7 complaint because their use and enjoyment of the facilities and services, programs
8 and activities in question were not denied or interfered with by the Agency or by any
9 other party;

10 11. Plaintiffs' causes of action are barred on the ground and to the extent
11 that the Agency has not violated any applicable federal, state or municipal disability
12 access laws;

13 12. Failure to exhaust administrative remedies;

14 13. With respect to each and every allegation in the SAC , as they relate to
15 the request for a preliminary injunction, such an injunction is not appropriate
16 because: (a) there is no imminent threat or irreparable injury; (b) there is no
17 likelihood of prevailing on the merits; and (c) the balancing of competing interests
18 weigh in CRA/LA's favor;

19 14. Plaintiffs' prayer for injunctive relief is moot and/or will be by the time
20 this matter is adjudicated;

21 15. Failure to mitigate;

22 16. CRA/LA claims all defenses afforded to it under the Fair Employment
23 and Housing Act, California Government Code Section 12940, *et seq.*, and
24 specifically seeks attorneys' fees herein as provided by Government Code Section
25 12965;

26 17. Plaintiffs lacks standing to seek some or all of the injunctive relief
27 sought in the complaint;

28 18. The complaint, and each purported cause of action alleged in the

1 complaint, are barred to the extent that they rely on events that occurred before the
2 period captured by the running of the applicable statute of limitations;

3 19. The complaint is barred to the extent the alleged violations of law are
4 excused or justified under the statutes under which Plaintiffs have sued;

5 20. Plaintiffs have waived any right to recovery by taking actions that are
6 inconsistent with the ownership and exercise of the rights claimed in the complaint;

7 21. Plaintiffs have suffered no injury in fact with respect to the facts alleged
8 in the complaint;

9 22. Plaintiffs are not entitled to recover attorneys' fees;

10 23. The relief sought by Plaintiffs would constitute or result in a
11 fundamental alteration in the nature of the programs, services or activities offered by
12 the Agency;

13 24. The complaint, and each purported cause of action alleged in the
14 complaint, are barred to the extent that they rely on any alleged failure of the Agency
15 to comply with the self-evaluation and/or transition plan requirements in 28 C.F.R.
16 Sections 35.105 and 35.150(d) because such regulations exceed the scope of the
17 rulemaking authority granted to the regulators by Congress under the enabling
18 legislations. (42 U.S.C. § 12134(a));

19 25. The relief sought by Plaintiffs would purport to vest the judiciary with
20 the power, right or ability to expend public funds and/or deprive the Agency's
21 legislative branch of the right to exercise its discretion to expend public funds;

22 26. The complaint seeks a gift of public funds for a private purpose in
23 violation of the California Constitution;

24 27. The Agency is immune from liability under California Government
25 Code section 815 and 820 *et seq*;

26 28. Plaintiffs' prayer for damages above and beyond actual, compensatory
27 damages is barred on the ground that any such award would violate Section 818 of
28 the California Government Code;

1 29. The relief sought by Plaintiffs is barred as violative of the Tenth
2 Amendment to the United States Constitution as an unfunded mandate of Congress
3 that unlawfully and improperly usurps legislative, taxing and fiscal powers left to the
4 States and their instrumentalities, including without limitation the Agency and its
5 duly-elected and duly-appointed officers;

6 30. The relief sought by Plaintiffs is barred on the ground and to the extent
7 that it exceeds the powers vested in Congress under Article I, Section 8 of the United
8 States Constitution to regulate interstate commerce;

9 31. Plaintiffs are barred from maintaining this action by the principals of
10 estoppel and/or res judicata;

11 32. The equitable action is barred by the doctrine of unclean hands;

12 33. Plaintiffs' complaint fails to allege facts sufficient to constitute a claim
13 for punitive damages or exemplary damages in any amount or amounts whatsoever
14 or at all;

15 34. All actions of the Agency, or its employees, agents or representatives
16 were undertaken in good faith and with the reasonable belief that said actions were
17 valid, necessary and constitutionally proper;

18 35. The Agency's acts were privileged under applicable statutes and case
19 law;

20 36. Plaintiffs' claims herein are precluded due to Plaintiffs' impermissibly
21 splitting their claims and causes of action into multiple litigations;

22 37. Plaintiffs' claims are barred in their entirety as Plaintiffs failed to
23 comply with all the requirements under the lease agreement at the subject rental
24 premises;

25 38. There exists legitimate non-discriminatory reasons for the alleged acts
26 of which Plaintiffs complain.

27 iii. **The Oversight Board**: As Plaintiff's damages and injuries have not been
28 articulated, it is difficult for Defendant Oversight Board to fully respond to

1 Plaintiffs' claims at this time. Separate and apart from the arguments and defenses
2 raised by defendants DLA and the City of Los Angeles, Defendant Oversight Board
3 contends that it has no liability for the acts alleged in Plaintiffs' Second Amended
4 Complaint on several grounds. First, it did not exist during the period Plaintiffs
5 allege the "Government Defendants" failed to act. Second, to whatever extent
6 liability exists for any actions or inactions on the part of the Agency, by statute those
7 liabilities were *assumed* by Defendant DLA *only*, not by the Oversight Board. Third,
8 by statute, Oversight Board's duties and responsibilities are strictly limited.
9 Plaintiffs do not fall into the class of persons or entities to whom the Oversight
10 Board has a fiduciary duty, nor are the Plaintiffs' alleged claims in this matter
11 liabilities or obligations which the Oversight Board is required by statute to consider.
12 Finally, the Oversight Board lacks the statutory authority to order the DLA to
13 provide Plaintiffs with the relief sought in this matter.

14 iv. **The Owner Defendants:** The Owner Defendants have been included in
15 this action as Rule 19 necessary parties only; the Second Amended Complaint makes
16 no claim for relief against any of the Owner Defendants, and the Owner Defendants
17 have denied any liability.

18 v. **Group of 44 Owner Defendants:** The Group of 44 Owner Defendants has
19 asserted the following defenses: statute of limitations, lack of standing, alleged injury
20 or damage caused by third parties, laches, waiver and estoppel, undue financial or
21 administrative burden, and compliance with applicable laws

22 vi. **Amistad Plaza Partners:** Amistad Plaza Partners Limited Partnership
23 ("Amistad") asserts the following defenses:

- 24 a. Failure to State a Claim for Relief;
- 25 b. Failure to Exhaust Administrative Remedies;
- 26 c. Amistad is not a Recipient of Federal Financial Assistance;
- 27 d. Amistad is not a "Public Entity" for purposes of Title II of the
28 Americans with Disabilities Act;

- 1 e. Plaintiffs claims are barred, in whole or in part, by the applicable statute
- 2 of limitations;
- 3 f. Plaintiffs lack standing to assert their claims
- 4 g. There is no private right of action for Plaintiffs to pursue the claims
- 5 asserted against Amistad;
- 6 h. Plaintiffs have failed to properly mitigate their damages, if any;
- 7 i. Plaintiffs' claims are barred by the equitable doctrine of laches because
- 8 of the unreasonable and prejudicial delay of Plaintiffs in filing this
- 9 action;
- 10 j. Plaintiffs claims are barred because any harm or damages they sustained
- 11 were caused by their own actions and decisions;
- 12 k. Plaintiff's claims are barred by the doctrines of waiver, estoppel, and/or
- 13 unclean hands;
- 14 l. The remedies requested by Plaintiffs are more burdensome than
- 15 necessary to provide relief to Plaintiffs.
- 16 m. The remedies requested by Plaintiffs would result in economic waste;
- 17 n. Amistad at all times acted in good faith to comply with the laws
- 18 pursuant to which Plaintiffs bring their claims and acted with reasonable
- 19 grounds to believe that its actions did not violate these laws, and
- 20 Amistad asserts a lack of willfulness or intent to violate those statutes as
- 21 a defense of any claim by Plaintiffs for punitive damages; and
- 22 o. Amistad is not a person required to be joined to this action pursuant to
- 23 Fed. R. Civ. P.

24 vii. **4651 Huntington LP and New Tierra del Sol LP**: Defendants 4651
25 Huntington LP and New Tierra del Sol LP assert the following defenses: Failure to
26 State a Claim for Relief; Failure to Exhaust Administrative Remedies; Outside Scope
27 of Administrative Complaint; Statute of Limitations; Lack of Standing; Good Faith
28 Belief, Conduct, and Cause; Waiver; Estoppel; Laches; Loss Attributable to Others;

1 Unclean Hands; Immunity; Adequate Remedy at Law; Lack of Irreparable Injury;
2 Business Necessity; Lack of Disparate Impact/Lack of Disparate Treatment;
3 Reasonable Accommodations Made; Unreasonableness of the Requested
4 Accommodations; Indemnity; Unconscionability; Uncertain and Indefinite
5 Allegations; Relief Not Required by Laws; Lack of Injury; and No Right to
6 Attorneys' Fees

7 viii. **Imani Fe LP**: Owner Defendant Imani Fe, LP has asserted the following
8 affirmative defenses: (1) failure to state a claim; (2) relief not required by law; (3)
9 laches; (4) statute of limitations; (5) waiver and estoppel; (6) undue burden; (7)
10 adequate remedy at law; (8) comparative negligence/fault; (9) lack of injury to
11 plaintiff; (10) lack of standing; (11) no right to attorneys' fees; and (12) failure to
12 exhaust administrative remedies.

13 ix. **105 East I St.** LP: Owner Defendant 105 East I St., LP has asserted the
14 following affirmative defenses: (1) failure to state a claim; (2) statute of limitations;
15 (3) estoppel or waiver; (4) laches; (5) unclean hands; (6) conditions precedent; (7)
16 indemnity; (8) unconscionability; (9) frustration of purpose; (10) prevention of
17 performance; (11) undue burden; (12) uncertain and indefinite allegations; (13)
18 reservation of defenses

19 x. Menlo Park: Owner Defendant Menlo Park has asserted the following
20 affirmative defenses: (1) failure to state a claim; (2) relief not required by law; (3)
21 laches; (4) statute of limitations; (5) waiver and estoppel; (6) undue burden; (7)
22 adequate remedy at law; (8) injury caused by third parties; (9) lack of injury to
23 plaintiff; (10) lack of standing; (11) no right to attorneys' fees; (12) exhaustion of
24 administrative remedies; (13) uncertain and indefinite allegations

25 xi. **Redrock Noho Residential, LLC**: Owner Defendant Redrock Noho
26 Residential, LLC has asserted the following affirmative defenses: (1) Failure to State
27 a Claim for Relief; (2) Relief Not Required by Law; (3) Laches; (4) Statute of
28 Limitations; (5) Waiver and Estoppel; (6) Undue Burden; (7) Adequate Remedy at

1 Law; (8) Injury Cause by Third Parties; (9) Lack of Injury; (10) Lack of Standing;
2 (11) No Right to Attorneys' Fees; (12) Exhaustion of Administrative Remedies; (13)
3 Uncertain and Indefinite Allegations; and (14) Reservation of Additional Defenses.

4 **VII. RULE 26(a) DISCLOSURES**

5 Plaintiffs and the CRA/LA have served their initial disclosures. Plaintiffs
6 suggest that Plaintiffs and the remaining Government Defendants will serve either
7 initial disclosures or supplemental disclosures thirty (30) days after either (1) the
8 scheduling conference or (2) the Court's decision on the motions to dismiss,
9 whichever is sooner. The Owner Defendants suggest that initial disclosures must be
10 served by Owner Defendants by April 11, 2013 and that Plaintiffs and Government
11 Defendants will serve initial or supplemental disclosures on Owner Defendants by
12 that date. The City proposes that the deadline for all parties to serve and receive
13 initial disclosures be the same date.

14 Defendants City and the Oversight Board proposes initial or supplemental
15 disclosures of all parties, the Government Defendants and the Owner Defendants,
16 occur on the *latter* of the scheduling conference or the Court's decision on the
17 motions to dismiss.

18 **VIII. DISCOVERY PLAN**

19 **A. PLAINTIFFS' DISCOVERY TOPICS**

20 Plaintiffs plan to propound written discovery upon Defendants, including
21 requests for production of documents, interrogatories and requests for admission,
22 followed by depositions, including Rule 30(b)(6) depositions and depositions of
23 other party-affiliated deponents and third party witnesses. Plaintiffs have
24 propounded initial requests for production of documents, interrogatories and requests
25 for admissions upon the City and CRA/LA. Plaintiffs also intend to conduct site
26 inspections with qualified consultants, as needed, of properties that are the subject of
27 this litigation, pursuant to Fed.R.Civ.P. 34(a)(2).

28 Plaintiffs' discovery will include the following categories and topics:

- 1 1. Funding levels and sources;
- 2 2. Contractual relationships;
- 3 3. Construction history;
- 4 4. Policies and procedures concerning accessible units and access to such
- 5 units;
- 6 5. Policies and procedures concerning reasonable accommodations and
- 7 modifications;
- 8 6. Policies and procedures concerning advertising of accessible units;
- 9 7. Policies and procedures concerning rental and assignment of
- 10 accessible units;
- 11 8. Data and information regarding housing units and projects, including
- 12 location of units/projects, the total numbers of units/projects, the numbers of
- 13 units/projects receiving direct federal funds, and accessibility in the subject units;
- 14 9. Data and information on applicants requesting or applying for
- 15 accessible units;
- 16 10. Data and information on occupants of accessible units, including their
- 17 lease agreements;
- 18 11. Communications among defendants regarding federal requirements,
- 19 accessibility, and related topics;
- 20 12. Transition of the redevelopment agency and its obligations, liabilities,
- 21 assets and functions under ABx1 26 (2011);
- 22 13. Notice and communications regarding the Rehabilitation Act, the
- 23 Americans with Disabilities Act, the Fair Housing Act. Government Code Section
- 24 11135 and their implementing regulations;
- 25 14. Use of Federal and State financial assistance;
- 26 15. Certifications regarding compliance with disability rights laws;
- 27 16. The relationship between the City, the Agency and CRA/LA;
- 28 17. The relationship between the City, CRA/LA and the Oversight Board;

- 1 18. Policies and procedures of the City, the Agency,, CRA/LA and the
- 2 Oversight Board;
- 3 19. The Disability Task Force of the Agency;
- 4 20. Training and monitoring of owners and managers of housing projects
- 5 within the Redevelopment Housing Program;
- 6 21. Complaints regarding accessibility and investigation of complaints; and
- 7 22. Accessibility of units and buildings within the Redevelopment Housing
- 8 Program.

9 Plaintiffs also intend to identify experts and engage in expert witness
10 discovery.

11 **B. DEFENDANTS' DISCOVERY TOPICS**

12 **i. Defendants CRA/LA, City, and Oversight Board**

13 Defendants CRA/LA and City of Los Angeles intend to conduct written
14 discovery, including interrogatories, requests for production of documents, requests
15 for admissions, and taking depositions of key party witnesses. Site inspections will
16 be warranted as discovery progresses. Expert discovery is also anticipated.
17 Defendants will conduct discovery in the following areas, which is not exhaustive,
18 including, but not limited to

- 19 1. Funding sources;
- 20 2. Contractual relationships;
- 21 3. Construction history at the alleged apartments and dwellings and property
- 22 ownership;
- 23 4. Policies and procedures concerning accessible units and access to such
- 24 units;
- 25 5. Policies and procedures concerning reasonable accommodations and
- 26 modifications, and demands related thereto;
- 27 6. Policies and procedures concerning Plaintiffs' requests for
- 28 accommodated housing and qualifications for same;

- 1 7. Policies and procedures concerning rental and assignment of
- 2 accessible units;
- 3 8. Data and information regarding housing units and projects, including
- 4 location of units/projects; the total numbers of units/projects; the
- 5 number of units/projects receiving direct federal funds; accessibility;
- 6 and Plaintiffs qualifications for same;
- 7 9. Data and information on applicants requesting or applying for
- 8 accessible units;
- 9 10. Information regarding oversight and enforcement of accessibility;
- 10 requirements from other Defendants;
- 11 11. Communications among other parties and Plaintiffs;
- 12 12. Discovery pertaining to Plaintiffs' alleged representational standing;
- 13 13. Exhaustion of administrative remedies, if any;
- 14 14. Medical evidence supporting any claim of disability;
- 15 15. Damages;
- 16 16. Evidence supporting any claim for equitable relief;
- 17 17. Compliance with the California Government Tort Claims Act;
- 18 18. Discovery concerning the services, programs, and activities in question
- 19 in this action;
- 20 19. Discovery concerning the relief sought by Plaintiffs and the related
- 21 financial or administrative burdens on Defendants;
- 22 20. Discovery concerning responsible third parties who are wholly or in
- 23 part responsible for the harm alleged;
- 24 21. Discovery concerning implementation of required polices, procedures
- 25 and guidelines to ensure building accessibility to persons with
- 26 disabilities and implemented reporting and notification procedures;
- 27 22. Subsequent remedial measures; and
- 28 23. Discovery concerning building, safety, zoning, and other applicable

1 statutes and concerns concerning residential premises.

2 24. Discovery concerning the specifics of Plaintiffs' claims.

3 25. Discovery concerning the damages and injuries to Plaintiffs and the
4 Article III standing of the Plaintiffs

5 **C. PHASING**

6 Plaintiffs propose that discovery proceed in two phases, with the first phase
7 focused on discovery between the Plaintiffs and Government Defendants. The
8 second phase would provide, for all parties, that formal discovery by and against
9 Owner Defendants not commence until April 1, 2013 in light of the large number of
10 Owner Defendants in this case.

11 Defendants believe that discovery should be phased as follows:

12 The City, CRA/LA and the Oversight Board believe that discovery should be
13 phased as follows: Phase 1: Present till February 28, 2013 will be limited discovery
14 focused only on 1) the injury if any Plaintiffs suffered by each owner defendant, 2)
15 Plaintiffs' standing to sue each owner defendant, and 3) whether or not the owner
16 defendant received funding from the City and/or the DLA. Following the end of
17 Phase 1, Motions to Dismiss any Owner Defendants must be filed by April 1, 2013.
18 Phase 2: March 1, 2013 till July 31, 2013 will be focused on discovery between the
19 Plaintiffs and the Governmental Defendants. Phase 3: August 1, 2013 till December
20 31, 2012 will be focused on discovery between all parties.

21 The Owner Defendants (who have participated in the Conference) agree that
22 discovery should be phased.

23 The Group of 44 Owner Defendants states that formal discovery by and
24 against the Owner Defendants would include physical inspections of the property by
25 Plaintiffs. Property inspections should not be automatic but should be requested
26 according to the normal rules.

27 **D. DISCOVERY CUTOFF**

28 Plaintiffs suggest a fact discovery cut-off of August 30, 2013 and an expert

1 discovery cut-off of December 30, 2013 (see I, *infra*). August 30, 2013 is
2 appropriate here in light of the bifurcation of discovery proposed above, the larger
3 number of parties involved, and the time needed to meet and confer regarding
4 discovery responses and to seek the Court's assistance through motions to compel if
5 necessary. In proposing this and other dates reflected in this document, Plaintiffs
6 have attempted to select dates that will keep the case actively moving forward, allow
7 the parties to conduct appropriate and adequate discovery, and provide the parties
8 adequate time to respond to and prepare discovery, motions, and other matters.
9 Plaintiffs have included additional detail in the chart appended to this Report to
10 better reflect their thinking on this issue and to better assist the Court.

11 The City and CRA/LA suggest a fact discovery cut-off of December 31,
12 2013 and an expert discovery cut-off of April 30, 2014. December 31, 2013 is an
13 appropriate date for a fact discovery cut-off because the phased discovery will allow
14 for any unnecessary parties to be dismissed out early on, and it manages the large
15 number of parties involved while still allowing for sufficient time to deal with any
16 discovery and scheduling issues that may arise. The City and CRA/LA feel that not
17 only will these Phases help the case move actively forward but will help clarify and
18 flesh out the vague allegations made by Plaintiffs in the SAC

19 The Oversight Board proposes a discovery cut-off pursuant to Fed. R. Civ. P.
20 90 days before trial, January 9, 2015.

21 The Group of 44 Owner Defendants, Amistad, 4651 Huntington, Redrock
22 Noho Residential, LLC, Penny Lane and New Tierra del Sol propose October 31,
23 2013 but will defer to government defendants. Imani Fe is amenable to a discovery
24 cut-off of October 31, 2013 for fact-related discovery, and December 31, 2013 (or
25 later) for expert discovery.

26 105 East I Street and Menlo Park defer to the Government Defendants.

27 **E. ELECTRONICALLY STORED INFORMATION**

28 Plaintiffs requested that the defendants produce emails and database

1 information in native format and produce other documents in searchable PDF format.
2 Plaintiffs requested that the defendants produce documents in Word, Excel, or
3 comparable format where a searchable PDF format was not possible.

4 The City's position is that it may be able to produce documents electronically,
5 most likely not in searchable PDF format, and with respect to other documents it will
6 allow Plaintiffs to come to its facility to review documents, and Plaintiffs are to bring
7 a mobile copying service of the reproduction of documents.

8 The CRA/LA's position is that it will allow Plaintiffs to come to its facility to
9 review documents and that Plaintiffs are to bring a mobile copying service for
10 reproduction of documents.

11 The Oversight Board's position is that any relevant documents are in the
12 possession of either the DLA or the City, and therefore defers to those entities on this
13 issue.

14 The Group of 44 Owner Defendants and Redrock Noho Residential, LLC will
15 produce documents in native format when possible, and in PDF when possible, but
16 reserves the right to grant Plaintiffs access for inspection and copying as necessary
17 and appropriate depending on the scope of discovery responses.

18 Amistad, 4651 Huntington LP , New Tierra del Sol LP and Menlo Park object
19 to requiring them to provide documents in native format. They will provide PDF
20 copies of documents responsive to discovery requests. They to extensive ESI search
21 as unduly burdensome on Rule 19 Defendants who are in this case for remedial
22 purposes only and reserve all rights as to the format of any production to be made.

23 Imani Fe will produce documents and ESI in their original formats. Imani Fe
24 will agree to translate their documents to other formats, such as searchable PDFs or
25 other usable electronic formats, if the cost of the translation is borne by the
26 requesting party.

27 105 East I St. joins in the positions of Menlo Park, Amistad and 4651
28 Huntington and New Tierra del Sol.

1 The parties do not yet have consensus on these issues.

2 **F. BATES STAMPING**

3 The parties agree that documents will be Bates-stamped using the following
 4 prefixes. Plaintiffs have proposed that the Bates-stamping be done by the disclosing
 5 party prior to production:

Plaintiffs Prefix	Party
CALIF	Californian Actively Living Independent and Free
FHC	Fair Housing Council of San Fernando Valley
ILC	Independent Living Centers of Southern Cal.

8

Government Defendants Prefix	Party
LAC	City of Los Angeles
DLA	Designated Local Authority aka CRA/LA
OB	Oversight Board

12

Owner Defendants Prefix	Party
EIS	105 East I St. LP
EDA	12129 El Dorado Avenue LP
HUN	4651 Huntington LP
BB	505 Bonnie Brae Partners LP
SBS	901 South Broadway Street LP
ADM	Adams 935 Partners LP
AMF	Amcal Montecito Fund, LP
APP	Amistad Plaza Partners LP
AND	Andalucia Senior Apartments LP
ARD	Ardmore 959 Partners LP
AST	Asturias Senior Apartments LP
BHN	Behringer Harvard NoHo LLC
BSBV	B S Broadway Village II LP
BSA	Buckingham Senior Apartments, LP
CSA	Cantabria Senior Apartments LP
CCP	Carondelet Court Partners LP
CVA	Central Village Apartments LP
DOR	Decro Orion Apartments LP
DOS	Decro Osborne Apartments LP

28

1	ELAC	East LA Community Corporation
	EV	Eastside Village LP
2	ECHC	Esperanza Community Housing Corp
3	EH	Eugene Hotel LP
4	FW	Fame West 25th Street LP
	FEB	Far East Building LP
5	GN	Grandview Nine, LP
6	HV	Hart Village LP
7	HVSH	Heavenly Vision Senior Housing LP
8	HHP	Hobart Heights Partners LP
9	HS	Hoover Seniors LP
10	IFE	Imani FE LP
11	KFHC	Korean Family Housing Corporation
12	LM	Las Margaritas LP
13	LAHP	Los Angeles Housing Partnership
14	LCV	Los Cuatro Vientos LP
15	MEN	Menlo Park, a CA Limited Partnership
16	MOR	Morgan Place LP
17	NGA	New Genesis Apartments LP
18	NTDS	New Tierra Del Sol
19	NHSV	North Hollywood Senior Villas LP
20	OH	Ol Hope LP
21	PVSH	Palm Village Senior Housing Corp
22	PA	Palomar Apartments LP
23	PLC	Penny Lane Centers
24	PGHP	PG Housing Partners LP
25	RAM	Rampart Apartments, a California LP
26	RNHR	Redrock Noho Residential, LLC
27	REN	Renato Apartments LP
28		

1	RIT	Rittenhouse Limited Partnership
2	SFNH	SF No Ho LLC
3		
4	SEL	Selma-Hudson Community LP
5	SM	Seven Maples LP
6	SVA	Sherman Village Apartments LP
7	SWCH	Sherman Way Community Housing LP
8	STO	Stovall Housing Corp
9	VS	Vermon Seniors, a California Corp
10	WAC	WA Court LP
11	WAP	Watts Athens Preservation XVII LP
12	WAV	West Angeles Villas, LP
13	WC	Western Carlton II LP
14	YTA	Yale Terrace Apartments LP

14 **G. CONFIDENTIAL INFORMATION**

15 To the extent discovery might disclose personal information about building
16 residents and program applicants or other confidential information, the parties will
17 work to develop a system to manage and protect individual privacy concerns.

18 **H. LIMITATIONS**

19 **1. Plaintiffs**

20 Plaintiffs propose that the Court allow Plaintiffs collectively to take 37
21 depositions of Government Defendants: Plaintiffs expect to need no more than 20
22 depositions for the CRA/LA (including former employees of the now-dissolved
23 Agency), no more than 15 for the City, and no more than two for the Oversight
24 Board. Plaintiffs propose that the Court allow Plaintiffs up to one deposition of each
25 Owner Defendant, subject to discovery phasing described above. Plaintiffs propose
26 that each plaintiff be permitted to propound up to 25 interrogatories to the City and
27 up to 25 interrogatories to the CRA/LA as permitted by the discovery rules. Plaintiffs
28 do not expect to collectively need more than 25 interrogatories per defendant for all

1 other defendants, subject to discovery phasing described above.

2 **2. Defendants**

3 **The City, CRA/LA and Oversight Board:** Defendants City and Oversight
4 Board propose that insofar as the Plaintiff entities' claims are similar if not identical,
5 there is no justification for why Plaintiffs collectively need to serve each defendant
6 with more than 25 interrogatories. Plaintiffs have not provided any explanation or
7 justification for why the excessive number of depositions they request is necessary,
8 nor have they identified the persons they believe need to be deposed.

9 The City disagrees with Plaintiffs' request for 15 depositions of the City and
10 feels that the request is unduly burdensome.

11 In light of the number of parties involved in this matter, and the separate and
12 distinct issues as to the Government Defendants as opposed to the Owner
13 Defendants, Oversight Board requests the Court set guidelines regarding the time
14 each party may depose each deponent.

15 The CRA/LA joins the Oversight Board and the City of LA in finding that
16 the Plaintiff entities' claims are similar if not identical, and thus do not warrant more
17 than the statutorily permitted 25 interrogatories collectively. The CRA/LA further
18 objects to Plaintiff's request for 20 depositions of CRA/LA, as it would be
19 oppressive and unduly burdensome.

20 **Owner Defendants:** The Group of 44 Owner Defendants, Amistad, 4651
21 Huntington, Redrock Noho Residential, LLC and New Tierra del Sol defer to the
22 Government Defendants.

23 Menlo Park and 105 East I St. defer to the Government Defendants but at this
24 time, and reserving its rights, does not expect to seek discovery beyond that to which
25 it is entitled under the applicable rules

26 Imani Fe sees no need at this time to augment the standard discovery to which
27 they are entitled, in terms of the number and/or length of depositions, or the number
28 of interrogatories, requests for production, or requests for admissions.]

1 **I. EXPERT WITNESSES**

2 Plaintiffs suggest disclosure of expert witnesses on September 30, 2013 and
3 disclosure of rebuttal expert witnesses on October 31, 2013. Plaintiffs suggest an
4 expert discovery cut-off of December 30, 2013. Plaintiffs believe that much of the
5 case may be resolved on summary judgment and that it will therefore be important to
6 complete fact and expert discovery prior to the filing of any summary judgment
7 motions.

8 The City and CRA/LA suggest an expert discovery cut-off of April 30, 2014, a
9 disclosure of rebuttal expert witnesses on June 30, 2014, and an expert discovery cut-
10 off of November 30, 2014. The City and CRA/LA do not believe that it is necessary
11 to complete expert discovery prior to the filing of any summary judgment motions.

12 The Oversight Board suggests an expert discovery cut-off of March 31, 2014,
13 to allow time for the number of expert depositions that will be involved

14 The Group of 44 Owner Defendants , Amistad, 4651 Huntington, New Tierra
15 del Sol, Imani Fe, Menlo Park, Redrock Noho Residential, LLC, Penny Lane and
16 105 East I St. defer to the schedule for expert witness disclosure approved by the
17 Government Defendants, assuming it is consistent with the proposed discovery cut-
18 off schedule set forth above.

19 **J. COMPLEXITY**

20 A. Plaintiffs:

21 Plaintiffs believe that this case is complex given the number of parties with
22 common or similar interests but separate counsel and the issues surrounding the
23 redevelopment transition, and therefore it is necessary to employ the procedures set
24 forth in the Manual of Complex Litigation.

25 B. Defendants:

26 The City believes that the issue of complexity should be dealt with following
27 Phase 1 of discovery. The case is currently only complex due to the large number of
28 parties involved, and following the first phase of discovery this number could

1 decrease.

2 The CRA/LA joins in the City of LA's proposal that the issue of complexity
3 should be dealt with following Phase 1 of discovery, as the case is currently only
4 complex due to the large number of parties involved, and following the first phase of
5 discovery this number could decrease.

6 The Oversight Board agrees at this time that the matter is complex due to the
7 number of parties, but not due to the complexity of legal issues

8 The Group of 44 Owner Defendants, Amistad, 4651 Huntington , New Tierra
9 del Sol, Menlo Park, Redrock Noho Residential, LLC, Penny Lane and 105 East I St.
10 defer to the position of the Government Defendants on the issue of whether the
11 Manual of Complex Litigation should apply.

12 Imani Fe, LP believe that this case is complex given the number of separately
13 represented parties, the complex legal issues involved in the case, the discovery that
14 will be required (including multiple property inspections and voluminous
15 documents), and the issues surrounding the dissolution of redevelopment agencies.
16 Imani Fe therefore believes it is necessary to employ the procedures set forth in the
17 Manual of Complex Litigation

18 **IX. DISPOSITIVE AND PARTIALLY DISPOSITIVE**
19 **MOTIONS AND SCHEDULE**

20 Defendants City, CRA/LA and the Oversight Board have filed motions to
21 dismiss that are currently pending before the Court.

22 Plaintiffs anticipate filing motions for summary judgment or partial summary
23 judgment against some or all defendants.

24 Plaintiffs suggest a dispositive motion cut-off for filing motions of February 1,
25 2014 and a hearing date for dispositive motions of April 1, 2014. Because FRCP
26 56(b) provides that dispositive motions must be filed thirty days before the discovery
27 cutoff deadline unless the Court or local rule orders otherwise, Plaintiffs also propose
28 that the Court order that dispositive motions may be filed after the discovery cutoff

1 deadline but no later than February 1, 2014.

2 The Government Defendants propose a dispositive motion cut-off for filing
3 motions of October 1, 2014 and a hearing date for dispositive motions of December
4 1, 2014.

5 The Group of 44 Owner Defendants, Amistad, 4651 Huntington and New
6 Tierra del Sol, Imani Fe, Menlo Park, Redrock Noho Residential, LLC and 105 East
7 I St. defer to the schedule approved by the Government Defendants.

8 **X. ALTERNATIVE DISPUTE RESOLUTION**

9 Plaintiffs and the City have not had preliminary discussions regarding
10 settlement. Plaintiffs and the CRA/LA have had limited discussions regarding
11 potential mediation. Plaintiffs have created a framework for settling with Owner
12 Defendants and some of the Owner Defendants are engaging in discussions with
13 Plaintiffs regarding settlement.

14 The parties agree to ADR Procedure No. 3 – The parties shall participate in a
15 private dispute resolution proceeding prior to the deadline set in the Court’s standing
16 order.

17 **XI. TRIAL ESTIMATE AND TRIAL DATE**

18 Plaintiffs preliminarily estimate that trial will take 12-15 trial days. Plaintiffs
19 suggest a trial date of June 6, 2014. Plaintiffs requested a jury in their complaint.

20 Defendants : In light of the number of defendants and properties at issue in
21 this matter, the Government Defendants estimate trial will take 20-30 trial days.
22 Government Defendants suggest a trial date of April 10, 2015. The Government
23 Defendants reserve their right to request a jury.

24 Amistad, 4651 Huntington, New Tierra del Sol, Menlo Park, Redrock Noho
25 Residential, LLC and 105 East I St. defer to the Government Defendants

26 **XII. PRETRIAL CONFERENCE**

27 Plaintiffs suggest a final pretrial conference date of May 29, 2014.

28 Defendants: The Government Defendants suggest a pretrial conference date

1 of March 30, 2015.

2 Amistad, 4651 Huntington, New Tierra del Sol, Menlo Park, Redrock Noho
3 Residential, LLC and 105 East I St. defer to the Government Defendants.

4 **XIII. ADDITIONAL PARTIES**

5 The Court requested that all appropriate defendants be joined by August 2012
6 and all have been joined.

7 **XIV. UNUSUAL LEGAL ISSUES**

8 Some issues relating to the divisions of current responsibilities among the
9 CRA/LA, the City, and the Oversight Board are issues of first impression under a
10 brand new statutory scheme, which do not impact liability but may impact structure
11 of relief or settlement. The parties are not aware of any other unusual legal issues at
12 this time.

13 Oversight Board disputes that the issues of first impression in this matter do
14 not impact liability as Plaintiffs' claims against Oversight Board are entirely based
15 on liability arising out of Plaintiff's novel theories. The City joins in this. The City
16 also believes that the Plaintiffs seek to impose a novel duty on the City to monitor
17 the Owner Defendants and believe that this maybe an issue of first impression in the
18 Ninth Circuit. Furthermore Plaintiffs' attempt to seek enforcement of HUD
19 regulations in a private right of action has been decided in other circuits – against
20 Plaintiffs' position -- but appears to be an issue of first impression in the Ninth
21 Circuit.

22 **XV. SEVERANCE AND BIFURCATION**

23 Plaintiffs are not aware of the need for severance, bifurcation or other ordering
24 of proof at this time.

25 Defendants propose bifurcation as follows:

26 Oversight Board believes there are severance/bifurcation issues relating to the
27 Owner Defendants, but believe those issues may be resolved in the initial round of
28 discovery, or at least those issues will be clarified so that the Court may better

1 determine to what extent severance/bifurcation is warranted.

2 Menlo Park, Redrock Noho Residential, LLC, and 105 East I St. defer to the
3 Government Defendants at this time but reserves its rights to seek severance or
4 bifurcation

5 Dated: November 13, 2012

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Respectfully submitted,

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* Application for admission pro hac vice
approved by court order Doc. No. 15

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Filing counsel for Plaintiffs certifies that counsel for all parties listed above concur in the content of this document, and have authorized counsel for Plaintiffs to file this document using the Court's CM/ECF system.

SCHEDULE OF PRETRIAL DATES

Case No. CV-12-551-SJO (PJWx)

NOTE: For the Court’s convenience, we have included some proposed interim dates selected with reference to the Court’s Initial Standing Order revised 6/1/12, the Scheduling Order dated March 16, 2012 (Dkt. No. 21), the Local Rules, and the FRCP. Dates that appear in the Court’s schedule form are highlighted in gray.

Matter	Time	Day(s) or Weeks Before Trial	Plaintiffs’ Request	Defendant’s Request	Court Order
Trial Date (Jury) Estimated Length – Plaintiffs: 12-15 days Defendants:	9:00 a.m.		6/6/14	4/10/15	
Final Pretrial Conference Discuss Previously-Filed Motions in Limine Heard; File Agreed-Upon Set of Jury Instructions and Verdict Forms; File Proposed <i>Voir Dire</i> Questions and Agreed-To Statement of the Case; File Witness Exhibit List and Trial Brief (at PTC parties also to submit list of names and terms for reporter. Court to discuss means of streamlining the trial, including: bifurcation; presentation of foundational and non-critical	9:00 a.m.	8 days	5/29/14	3/20/15	

1 2	Matter	Time	Day(s) or Weeks Before Trial	Plaintiffs' Request	Defendant's Request	Court Order
3 4 5 6 7 8 9 10 11	testimony by deposition excerpts, narrative summaries and stipulations as to the content of testimony; and qualification of experts by admitted resumes. The Court will also discuss settlement.) (Standing Order ¶ 24)					
12 13 14 15 16 17 18 19 20	File Pretrial Conference Order (PTCO) (Joint Statement of Stipulated Facts, List of Facts in Dispute, Issues of Law In Dispute; also Deadline for Objections to Witnesses, Exh., Depos. (Standing Order ¶ 24(b); FRCP 26(a)(3))	ECF Filing	7 days before PTC (Local Rule provides for 11 days); Objections 14 days after discl.	5/22/14		
21 22 23	Deliver Motions in Limine Binders to Court (Standing Order ¶ 24(b)(6)(a))	COB	5 Court Days Before PTC	5/22/14		
24 25	File Motions In Limine (Standing Order ¶ 24(b)(6)(a))	ECF Filing	35 Days before Trial	5/2/14		
26 27 28	File Oppositions to Motions in Limine (Standing Order ¶ 24(b)(6)(a))	ECF Filing	7 days after motions filed	5/9/14		

	Matter	Time	Day(s) or Weeks Before Trial	Plaintiffs' Request	Defendant's Request	Court Order
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2						
3	File Replies re: Motions in Limine (Standing Order ¶ 24(b)(6)(a))	ECF Filing	7 days after opp. filed	5/16/14		
4						
5	File Memo of Contentions of Fact and Law, Jt. Witness List, Jt. Exh. List, Pretrial Exh. Stip; (Standing Order ¶¶ 24(b)(2), (3), (4) and (5); Local Rules 16-1, 16-4, 16-5, FRCP 26(a)(3)(A)(iii))	ECF Filing	21 days before PTC	5/8/14		
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12	Last Day for Hearing Motions	TBD	45 days before trial	4/1/14 (Plaintiffs propose setting deadline earlier than 45 days)	12/1/14	
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16	Last Day to file Dispositive Motions (moving party to provide more than standard 28-day notice per Standing Order ¶ 19(a))	ECF Filing		2/1/14 (60 days before motion hearing)		
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20	Deadline for Opposition to Dispositive Motions	ECF Filing		2/28/14 (29 days before motion hearing)		
21						
22	Deadline for Replies on Dispositive Motions	ECF Filing		3/14/14 (14 days before Motion Hearing)		
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24	Deadline for initial or supplemental disclosures			For Plaintiffs and Government Defendants: 30 days from ruling on MTD or 11/26/12	Owner Defendants: 4/1/13	
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Matter	Time	Day(s) or Weeks Before Trial	Plaintiffs' Request	Defendant's Request	Court Order
			Scheduling Conference, whichever is earlier; For Owner Defendants: 3/1/13		
Formal discovery by and against Owner Defendants			No earlier than 3/15/13	Owner Defendants: No earlier than 4/1/13	
Expert Disclosures (Expert Report due 90 Days Before Trial per FRCP 26(a)(2)(d))			9/31/13		
Rebuttal Expert Disclosures			10/31/13		
Discovery Cut-off	COB	90 days before trial	Fact: 8/30/13 Expert: 12/31/13 (Plaintiffs propose cutoff date more than 90 days prior to trial and propose fact discovery cutoff prior to expert cutoff)	Imani Fe: Fact Discovery cutoff 10/31/13 Expert Discovery cutoff 12/31/13 Oversight Board: 90 days before trial	
Last Day to Conduct Settlement Conference		30 days before pretrial conference	4/29/2014		
Last Day to Amend Pleadings or Add Parties	ECF Filing	Within 30 days of scheduling conference	12/26/12		

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**CERTIFICATE OF SERVICE
CENTRAL DISTRICT OF CALIFORNIA**

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I hereby certify that on this 13th day of November, 2012, I filed the foregoing Joint Conference of Parties Report and accompanying documents via the Court's CM/ECF filing system, which shall serve as notice of such filing on all counsel of record.

/s/ Michael G. Allen
Michael G. Allen