

**BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.**

In the Matter of:)

Apartment Investment)
and Management Company,)

Respondent.)

Docket No. TSCA HQ-2002-0003

MOTION TO TERMINATE CONSENT AGREEMENT

Apartment Investment and Management Company (“AIMCO”), by its attorneys, moves this Environmental Appeals Board (“Board”) to enter an order terminating the Consent Agreement entered in this action (“Consent Agreement”). *See* Exh. A (Consent Agreement and Final Order, *In the Matter of Apartment Investment and Management Company*, EPA Docket No. TSCA-HQ-2002-0003). In support of this motion, AIMCO states the following:

1. This case was initiated pursuant to the United States Environmental Protection Agency’s (“EPA’s”) *Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations*, 60 F.R. 66706 (December 22, 1995) (“Audit Policy”) updated by 65 F.R. 19617 (April 11, 2000). Exh. A pg. 3.

2. Using EPA’s Audit Policy, AIMCO proposed auditing its pre-1978 properties to determine its compliance with the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. §§ 4851, *et seq.* Exh. A pg. 3.

3. AIMCO, the United States Department of Housing and Urban Development (“HUD”) and EPA agreed to commence and conclude this matter through execution of the Consent Agreement, which was entered by this Board through a Final Order on January 15, 2002. Exh. A.

4. The purpose of the Consent Agreement was to establish an agreed-upon lead-based paint remediation program and achieve compliance with Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act, 42 U.S.C. § 4852d, and Section 409 of the Toxic Substances Control Act, 15 U.S.C. § 2689, and the implementing regulations. *See* Exh. A.

5. The Consent Agreement provides that “AIMCO’s obligations under the Consent Agreement *shall terminate* when it has performed all terms of the Consent Agreement.” Exh. A ¶ 93 (emphasis added). The Consent Agreement further provides that the “provisions of this Consent Agreement . . . shall apply to and be binding upon EPA, HUD, and AIMCO . . . *for the duration* of this Consent Agreement.” Exh. A ¶ 12 (emphasis added).

6. AIMCO has fully and faithfully implemented, performed and maintained compliance with all obligations and terms of the Consent Agreement and the lead-based paint regulations and has developed, implemented, and continues to maintain sophisticated recordkeeping and training protocols for lead-based paint management and disclosure.

7. AIMCO’s full and faithful compliance with the lead-based paint regulations and the obligations of the Consent Agreement is reflected in the lack of reportable activity contained in the two most recent annual reports submitted to EPA and HUD pursuant to Section K, Paragraph 77 of the Consent Agreement. *See* Exh. B (2011 and 2010 Annual Reports).

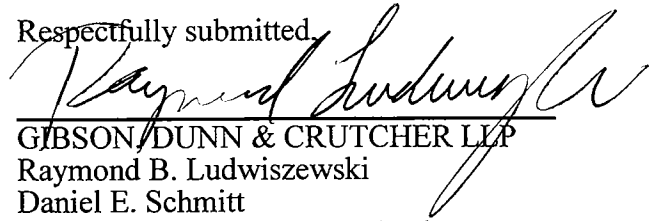
8. Its purpose being fulfilled, the operation of the Consent Agreement is no longer necessary and its continued existence does not provide any public benefit.

9. For the reasons stated above, AIMCO moves this Board that the Consent Agreement be terminated and the matter closed.

WHEREFORE, AIMCO requests that this Board enter an order terminating the Consent Agreement and closing this matter.

Date: October 19, 2012

Respectfully submitted,



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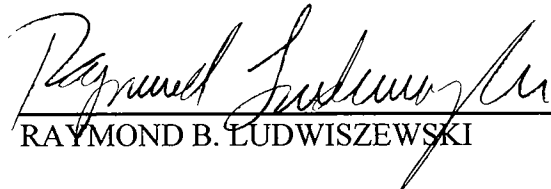
Counsel for AIMCO (authorized to receive
service in this matter)

CERTIFICATE OF SERVICE

I hereby certify that exact copies of the foregoing *Motion to Terminate Consent Agreement*, including exhibits, in the matter of *Apartment Investment and Management Company*, Docket No. TSCA HQ-2002-0003, were served by U.S. Postal Service Express Mail on the following persons, this 19th day of October, 2012:

Mr. Matthew Ammon
U.S. Department of Housing and Urban Development
Office of Healthy Homes and Lead Hazard Control
451 7th Street, S.W.
Room P-3206
Washington, D.C. 20410

Mr. Brian T. Dyer
U.S. Environmental Protection Agency
Toxics and Pesticides Enforcement Division (2245A)
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RAYMOND B. LUDWISZEWSKI