

PREDETERMINATION SETTLEMENT AGREEMENT

CP# 03-16-68733
HUD# 07-16-4277-8

PARTIES TO THE SETTLEMENT AGREEMENT:

RESPONDENTS

CHARLES HARRIOTT
3642 Skylark Lane SE
Cedar Rapids, Iowa 52403

C & R PROPERTIES
PO Box 952
Cedar Rapids, Iowa 52406

3212 KENRICH DR RESIDENTIAL COOPERATIVE, INC
3642 Skylark Lane SE
Cedar Rapids, Iowa 52403

COMPLAINANTS

BRITTANY BESHEARS & AUDREY BESHEARS

and

IOWA CIVIL RIGHTS COMMISSION
400 East 14th Street
Des Moines, Iowa 50319

Description of the Parties:

Complainants allege once Respondent Charles Harriott learned they were a married same-sex couple he abruptly used the pretext of occupancy limits to make a one-bedroom apartment unavailable to them. Complainants allege their sex and sexual orientation were motivating factors in Respondents' decision-making. Respondents deny they have discriminated against Complainants, and maintain they had a legitimate business reason to restrict their one-bedroom apartment to two persons. Respondents own or manage the subject property, a ten-unit apartment complex, located at 3212 Kenrich Drive SW, Cedar Rapids, Iowa 52404.

A complaint having been filed by Complainants against Respondents with the Iowa Civil Rights Commission (hereafter referred to as the Commission) under Iowa Code Chapter 216 and there having been a preliminary inquiry, 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 refuse 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).

Respondents acknowledge the Fair Housing Act, (FHA) makes it unlawful to refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or to otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, familial status, or national origin.
42 U.S.C. 3604(a) (§ 804(a) of the Fair Housing Act).

Voluntary and Full Settlement

3. The parties acknowledge this 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.
4. 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 his complaint are not fully meritorious.
5. 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.
6. Respondents agree the Commission may review compliance with this Agreement. And as part of such review, Respondents agree the Commission may examine witnesses, collect documents, or require written reports, all of which will be conducted in a reasonable manner by the Commission.

7. The parties acknowledge, if the Commission or the U.S. Department of Housing and Urban Development (HUD) has reasonable cause to believe that Respondent has breached this Agreement, the Commission may refer the matter to the Iowa Department of Justice - Office of the Attorney General and HUD may refer the matter to the U. S. Department of Justice.

Disclosure

8. Because, pursuant to Iowa Code §216.15A(2)(d), the Commission 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

9. 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 the Iowa Civil Rights Commission, 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 Training

10. Respondents agree Charles and Ronda Harriott, and each of Respondents' current employees or agents who are involved in the management or operation of Respondents' residential rental properties will receive training on the requirements of State and Federal Fair Housing Laws within 90 days of their receipt of a Closing Letter from the Commission. The training will address all aspects of fair housing law, but will emphasize the laws regarding the prohibition of discrimination against prospective tenants and tenants based on sex, sexual orientation, and familial status. The training shall be conducted by a qualified person, approved by the Commission or the U.S. Department of Housing and Urban Development.

Respondents also agree to send documentation to the Commission, verifying the fair housing training has been completed, within ten (10) days of completing the training.

Occupancy Standards

11. The Keating Memo. In 1991, Frank Keating from the Office of General Counsel at HUD issued a memorandum to Regional Counsel regarding maximum occupancy cases. The Keating Memo was not meant to be a hard and fast rule with regard to occupancy standards. Instead, the Memo states, “[T]he Department believes that an occupancy policy of two persons in a bedroom, as a general rule, is reasonable under the Fair Housing Act.” If the standard is more restrictive, it must be examined “to determine whether it operates unreasonably to limit or exclude families with children.” The Memo goes on to state other considerations include the size of the bedrooms and the unit; the age or ages of the children; the configuration of the unit; other physical limitations, such as septic and sewer capacity; state and local law; and other relevant factors. Other relevant factors that may be considered in determining whether the landlord’s two-per-bedroom rule is discriminatory include whether the housing provider has made statements indicating a bias against families with minor children, has taken steps to discourage families with children from living in its rental units, or has enforced occupancy policies only against families with minor children. The Keating Memo was later codified on December 14, 1998 and became the accepted law for determining if an occupancy standard is unreasonable and, if as applied, discriminatory.

The City of Cedar Rapids, Iowa has adopted the 2015 International Property Maintenance Code which provides regulations and occupancy maximums for the purposes of addressing overcrowding and protecting public health, safety and general welfare. The applicable occupancy provisions of the Code are as follows: Every bedroom shall contain a minimum of 70 square feet and every bedroom occupied by more than one person shall contain a minimum of 50 square feet of floor area for each occupant thereof. Living rooms shall contain at least 120 square feet and can also be used a sleeping area but must fully comply with Section 404.4 of the Code.

Confusion can arise for housing providers and tenants when a city adopts maximum occupancy standards that exceed the Keating Memo’s two-per-bedroom rule and can result in discrimination complaints based on familial status. That is why it is important that housing providers take into consideration the size of the bedrooms and the size of the unit, the age or ages of the children, and the configuration of the unit before strictly applying a two-per-bedroom rule. If the two-per-bedroom rule has a disparate impact on families with minor children, then the housing provider must prove that the two-per-bedroom rule is justified, i.e., it is necessary to achieve a substantial, legitimate, nondiscriminatory interest. The interest may not be hypothetical or speculative. The housing provider must be able to provide evidence of such interest and must provide evidence its two-per-bedroom rule actually achieves that interest. If the housing provider successfully proves its two-per-bedroom rule is necessary to achieve its substantial, legitimate, nondiscriminatory interest, the burden shifts back to the prospective tenant to prove that such interest could be served by another practice that has a less discriminatory effect.

12. Within 90 days of their receipt of a Closing Letter from the Commission, Respondents agree to contact each City, where each of the 60 rental units they own or manage are located, to get a copy of each City’s rental code and occupancy standards. Respondents agree, before establishing occupancy maximums for each rental unit, they will take into consideration the size of the bedrooms and the size of the unit; the age or ages of the children; the configuration of the unit, the City rental code, and the Keating Memo.

Relief for Complainant

13. Within seven days of receiving a Closing Letter from the Commission, Respondents agree to pay Complainants \$300.00 without any deductions. Respondents agree the Settlement Check will be made out to Brittany and Audrey Beshears and will be mailed to the Commission to the attention of Natalie Burnham, Iowa Civil Rights Commission, 400 East 14th Street, Des Moines, Iowa 50319. The Commission will promptly send the settlement check to Complainants via certified mail.

Reporting and Record-Keeping

14. Respondents shall forward to the Commission objective evidence of the successful completion of fair housing training in the form of a Certificate or a letter from the entity conducting the training within ten (10) days of the completion of the training, as evidence of compliance with Term 10 of this Agreement.

All required documentation of compliance must be submitted to:

Don Grove, Supervisor of Housing Investigations
Grimes State Office Building
400 East 14th Street,
Des Moines, Iowa 50319

_____ Charles L. Harriott, RESPONDENT	_____ Date
_____ C & R Properties, RESPONDENT	_____ Date
_____ 3212 Kenrich DR Residential Cooperative, Inc., RESPONDENT	_____ Date
_____ Brittany Beshears, COMPLAINANT	_____ Date
_____ Audrey Beshears, COMPLAINANT	_____ Date
_____ Kristin H. Johnson, DIRECTOR IOWA CIVIL RIGHTS COMMISSION	_____ Date