

PREDETERMINATION SETTLEMENT AGREEMENT

CP# 03-17-70259
HUD# 07-17-6288-8

PARTIES TO THE SETTLEMENT AGREEMENT

RESPONDENTS

MARK MERSHON
3012 Rownd Street
Cedar Falls, Iowa 50613

MERSHON RENTALS, LLC
3012 Rownd Street
Cedar Falls, Iowa 50613

COMPLAINANT

ANGELA JACKSON
Commissioner
Iowa Civil Rights Commission
400 East 14th Street
Des Moines, Iowa 50319

and

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

Description of the Parties: Complainant is a member of the Iowa Civil Rights Commission (hereinafter referred to as the Commission). 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 failed to provide a reasonable accommodation by refusing to waive their “no-pets” policy for a Chocolate Lab assistance animal and this resulted in different terms, conditions or privileges of rental, and a denial of rental housing based on disability. Respondents own or manage the subject property, a multi-residential property with an office space and two residential units, located at 3020 Rownd Street, Cedar Falls, Iowa 50613.

A complaint having been filed by Complainant against Respondents with 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 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 Federal Fair Housing Act (FHA) and the ICRA make it unlawful to discriminate in the sale or rental or otherwise make unavailable or deny a dwelling to a buyer or renter because of a disability. 42 U.S.C. 3604(f)(1)(a) (§ 804(f)(1) of the Fair Housing Act); Iowa Code § 216.8A(3)(a)(1).
4. Respondents acknowledge the Fair Housing Act (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).
5. 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).
6. Respondents acknowledge their obligation under the FHA and ICRA to allow assistance animals as a reasonable accommodation when necessary to permit an individual with a disability equal opportunity to use and enjoy a dwelling.

Assistance animals are often referred to as service animals, emotional support animals, therapy animals, companion animals or support animals. Under the FHA and ICRA, an assistance animal is “not a pet. It is an animal that works, provides assistance, or performs tasks for the benefit of a person with a disability, or provides emotional support that alleviates one or more identified symptoms or effects of a person's disability. Assistance animals perform many disability-related functions, including but not limited to, guiding individuals who are blind or have low vision, alerting individuals who are deaf or hard of hearing to sounds, providing protection or rescue assistance, pulling a wheelchair, fetching items, alerting persons to impending seizures, or providing emotional support to persons with disabilities who have a disability-related need for such support.” *Service Animals and Assistance Animals for People with Disabilities in Housing and HUD-Funded Programs*, U.S. Department of Housing and Urban Development, FHEO Notice: FHEO-2013-01, April 25, 2013, at 2.

After receiving a request, housing providers must consider the following:

- (1) Does the person seeking to use and live with the animal have a disability (a physical or mental impairment that substantially limits one or more major life activities)?
- (2) Does the person making the request have a disability-related need for an assistance animal? (afford a person with disabilities an equal opportunity to use or enjoy the dwelling).

A request for accommodation can be denied if the accommodation would impose an undue financial and administrative burden or if it would fundamentally alter the essential nature of the housing provider's services. "The determination of undue financial and administrative burden must be made on a case-by-case basis involving various factors, such as the cost of the requested accommodation, the financial resources of the provider, the benefits that the accommodation would provide to the requester, and the availability of alternative accommodations that would effectively meet the requester's disability-related needs." Joint Statement of the Department of Housing and Urban Development and the Department of Justice, *Reasonable Accommodations Under The Fair Housing Act*, May 17, 2004, at 7.

"The request may also be denied if: (1) the specific assistance animal in question poses a direct threat to the health or safety of others that cannot be reduced or eliminated by another reasonable accommodation, or (2) the specific assistance animal in question would cause substantial physical damage to the property of others that cannot be reduced or eliminated by another reasonable accommodation. Breed, size, and weight limitations may not be applied to an assistance animal. A determination that an assistance animal poses a direct threat of harm to others or would cause substantial physical damage to the property of others must be based on an individualized assessment that relies on objective evidence about the specific animal's actual conduct — not on mere speculation or fear about the types of harm or damage an animal may cause and not on evidence about harm or damage that other animals have caused. Conditions and restrictions that housing providers apply to pets may not be applied to assistance animals." FHEO-2013-01 *at 3*.

Respondents acknowledge they will consider each tenant or prospective tenant's situation and accommodation request individually to determine if the requested accommodation is reasonable. The parties acknowledge that if the disability is not known or obvious, Respondents may make a reasonable inquiry and request documentation from a health care provider that verifies the tenant/prospective tenant's disability, without seeking or collecting information regarding the nature of the disability. In addition, Respondents may make reasonable inquiry and request documentation from a health care provider that verifies the tenant or prospective tenant's need for the accommodation, i.e., the relationship between the person's disability and the need for the requested accommodation.

Assistance animals cannot be subjected to monthly pet fees since they are not considered pets under the FHA and ICRA. Housing providers cannot require special tags, equipment, certification or special identification of assistance animals.

Voluntary and Full Settlement

7. 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.
8. 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.
9. 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.
10. 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.

Disclosure

11. 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

12. 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

13. Respondent Mark Mershon, and each of Respondents' current employees or agents who are involved in the management or operation of residential rental properties will receive training on the requirements of State and Federal Fair Housing Laws on or before September 30, 2017. The training will address all aspects of fair housing law, but will emphasize the law regarding how to handle requests for reasonable accommodations from individuals with a

disability. 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.

New Policy and Practice

14. For all residential rental properties owned and managed, now and in the future, Respondents agree, within thirty (30) days of the execution of this Settlement Agreement, to adopt and implement specific, uniform, and objective written standards, procedures, and forms for receiving and handling requests made by people with disabilities for reasonable accommodation. These standards shall comply with the requirements of Iowa Code Chapter 216 and 42 U.S.C. § 3601 et seq.

Respondents agree within thirty (30) days of the execution of this Settlement Agreement to send documentation to the Commission detailing Respondents' said procedures with a copy of their reasonable accommodation policy and applicable forms.

Respondents shall inform all applicants and occupants that they may request reasonable accommodations of Respondents' rules, policies, practices, and services. Prior to lease execution, if prospective residents inquire about reasonable accommodations, Respondents shall inform them of their ability to seek reasonable accommodations.

Respondents shall adopt a Reasonable Accommodation Policy and forms to implement the policy, using the following forms or forms substantially equivalent:

- Attachment 1: Reasonable Accommodation Policy
- Attachment 2: Assistance Animals Policy
- Attachment 3: Guidelines Regarding Assistance Animals
- Attachment 4: Application for Reasonable Accommodation
- Attachment 5: Health Care Professional Form

Upon adopting specific, uniform, and objective written standards and procedures for receiving and handling requests made by people with disabilities for reasonable accommodations, Respondents shall provide written notice of those standards, procedures and forms to each current and future resident who has requested an accommodation.

Respondents shall keep written records of each request for reasonable accommodation. These records shall include:

- Name, address, and telephone number of the person making the request;
- Date request received;
- Nature of request;
- Whether request granted or denied; and
- If denied, reason(s) for the denial.

Review of Tenant Files

15. Respondents agree to review all current tenant files to determine whether his employees or agents appropriately handled past requests for reasonable accommodations in accordance with the requirements of Iowa Code Chapter 216 and 42 U.S.C. § 3601 et seq. If errors were made in the handling of past requests for reasonable accommodations, Respondents shall promptly correct those errors by notifying the affected residents, granting the requests for reasonable accommodations, and refunding any monies unlawfully collected for pet fees or deposits.

Within ninety (90) days of the execution of this Settlement Agreement, Respondents shall submit a written report to the Commission, to the attention of Don Grove, Supervisor of Investigations, stating: (1) the number of tenant files reviewed, (2) the name and job title of the person or persons who reviewed those files, (3) the date or dates those files were reviewed, (4) the number of errors found, and (5) the number of errors corrected. For each error, Respondents shall include in its written report to the Commission the following information:

- Name, address, and telephone number of affected resident;
- Date of request for reasonable accommodation;
- Nature of request;
- Date affected resident notified of error; and
- Nature of action taken to correct error.

Relief for Complainant

16. Respondents agree to promote Fair Housing, by printing the Commission's fair housing brochure, "Fair Housing and You," and distributing the brochure to each of their rental units on or before May 31, 2017. Respondents agree to access the brochure on the Commission's website at:
https://icrc.iowa.gov/sites/default/files/publications/2013/FairHousing_English_2013.pdf

Respondents also agree to send a statement to the Commission, on or before May 31, 2017, verifying that the brochure was, in fact, distributed to each of his tenants with the number of rental units it was distributed to.

Reporting and Record-Keeping

17. 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 13 of this Agreement.
18. Within thirty (30) days of the execution of this Settlement Agreement, Respondents shall submit a written report to the Commission detailing Respondents' reasonable accommodation procedures with a copy of his reasonable accommodation policy and applicable request forms, as objective evidence that Respondents have adopted and implemented specific, uniform, and objective written standards, procedures and said forms for receiving and handling requests made by people with disabilities for reasonable accommodation, as evidence of compliance with Term 14 of this Agreement.

19. Within ninety (90) days of the execution of this Settlement Agreement, Respondents shall submit a written report to the Commission, as objective evidence that all current tenant files have been reviewed to determine whether their employees or agents appropriately handled past requests for reasonable accommodations as evidence of compliance with Term 15 of this Agreement.
20. On or before May 31, 2017, Respondents shall send a written statement to the Commission verifying the “Fair Housing and You” brochure has been distributed to all of their tenants, as evidence of compliance with Term 16 of this Agreement.

All required documentation of compliance must be submitted via email or U.S. Mail to:

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

Mark Mershon, RESPONDENT	Date
Mershon Rentals, LLC, RESPONDENT	Date
Angela Jackson, COMPLAINANT	Date
Kristin H. Johnson, DIRECTOR IOWA CIVIL RIGHTS COMMISSION	Date

Attachment 1
REASONABLE ACCOMODATION

_____ (property owner, manager) is committed to granting reasonable accommodation to its rules, policies, practices, or services when such accommodations may be necessary to afford people with disabilities the equal opportunity to use and enjoy their dwellings, as required by federal, state and local law. A reasonable accommodation may include a change or exception to a rule or policy that is needed because of a person's disability, or it may be a physical change to a unit or common area. It is _____'s general policy to provide reasonable accommodations to individuals with disabilities whenever an individual has a disability and there is a disability-related need for the requested accommodation. A disability-related need for a requested accommodation exists when there is an identifiable relationship, or nexus, between the requested accommodation and the individual's disability.

_____ accepts reasonable accommodation requests from persons with disabilities and those acting on their behalf. Reasonable Accommodation Request forms are available at _____, and may be returned to that office when complete. They will then be forwarded to _____. If you require assistance in completing the form, or wish to make the request orally, please contact _____. _____ will keep a record of all requests.

We will make a prompt decision on your request. If the request is of a time-sensitive nature, please let us know and we will expedite the decision-making process. In the event we need additional information to make a determination, we will promptly advise you of the information needed. It is _____'s policy to seek only the information needed to determine if a reasonable accommodation should be granted under federal, state or local law. We will not ask about the nature or extent of your disabilities. If we grant the request, you will receive a letter so indicating.

If we deny the request, we will provide you with a letter stating all of the reasons for our denial. If an individual with a disability believes that the request has been denied unlawfully or a response has been unreasonably delayed, then he or she may file a complaint by writing or calling any of the following:

Iowa Civil Rights Commission

Grimes Building, 400 E. 14th St.
Des Moines, Iowa 50319
515-281-4121 or 1-800-457-4416
<https://icrc.iowa.gov>

HUD – Regional Fair Housing Office

400 State Ave., Room 200
Kansas City, Kansas 66101
913-551-6993 or 1-800-743-5323
www.hud.gov



Attachment 2
ASSISTANCE ANIMALS POLICY

One common type of reasonable accommodation is allowing a person with a disability to keep an assistance animal. An assistance animal is any animal that works, provides assistance, performs tasks for the benefit of a person with a disability, or provides emotional support that alleviates one or more identified symptoms or effects of a person's disability. _____ is committed to ensuring that individuals with disabilities may keep such animals in _____ to the extent required by federal, state and local law.

An animal that is trained to do work or perform tasks for an individual with a disability is known as a service animal. It is often readily apparent that an animal is trained to do work or perform tasks for the benefit of a person with a disability, such as a dog that guides an individual with a visual impairment. Where it is readily apparent that an animal is a trained service animal, for example, a dog trained to guide an individual with a visual impairment, _____ will not inquire about the individual's disability or the animal's training.

In the case of a resident who requests a reasonable accommodation for an assistance animal that provides emotional or other assistance that ameliorates one or more symptoms or effects of the resident's disability, _____ may require a statement from a health or social service professional¹ indicating:

- i. That the applicant has a disability, and
- ii. That the animal would provide emotional support or other assistance that would ameliorate one or more symptoms or effects of the disability.

In the case of a resident who requests a reasonable accommodation for an assistance animal that does work or performs tasks for the benefit of a person with a disability, _____ may require that the resident provide:

- i. A statement from a health or social service professional indicating that the person has a disability, and
- ii. Information that the animal has been individually trained to do work or perform tasks that would ameliorate one or more symptoms or effects of the disability, or information that the animal, despite lack of individual training, is able to do work or perform tasks that would ameliorate one or more symptoms or effects of the disability.

If an assistance animal both provides emotional support or other assistance that ameliorates one or more effects of a disability and does work or performs tasks for the benefit of a person with a physical disability, _____ may require compliance with either of the two preceding paragraphs, but not both.

¹ "Health or social service professional" means a person who provides medical care, therapy or counseling to persons with disabilities, including, but not limited to, doctors, physician assistants, psychiatrists, psychologists, or social workers.

Attachment 3

GUIDELINES REGARDING ASSISTANCE ANIMALS

- A. _____ (property owner, manager) considers reasonable accommodation requests consistent with the definition of disability as outlined by the Fair Housing Act (FHA) and the Iowa Civil Rights Act (ICRA). The FHA and ICRA define “disability” as: “(1) a physical or mental impairment which substantially limits one or more of such person’s major life activities; (2) a record of having such an impairment, or (3) being regarded as having such impairment.” 42 U.S.C. § 3602(h); Iowa Code § 216.2(5). “Major life activities” include activities “such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.” 161 Iowa Admin. Code § 9.3; 24 C.F.R. § 100.201.
- B. _____ (property owner, manager) will review and respond promptly to all reasonable accommodation requests.
- C. All information received by _____ (property owner, manager) regarding an individual's disability, including physical, mental, psychological, and/or psychiatric conditions, shall be kept confidential unless the individual authorizes the release of the information or _____ (property owner, manager) is required to produce the information in response to a Court order, on notice to the affected individual(s).
- D. If the tenant has a disability and a disability-related need for a reasonable accommodation under federal, state or local law, _____ (property owner, manager) will grant such accommodation, including a request to keep an assistance animal. _____ (property owner, manager) will not retaliate against any person because that individual has requested or received a reasonable accommodation. _____ (property owner, manager) will not discourage any individual from making a reasonable accommodation request, including a request to keep an assistance animal. While it is _____’s (property owner, manager) policy to not allow any pets, assistance animals are not pets. However, a tenant must request an exception to the no-pet policy in order to keep an assistance animal.
- E. _____ may deny a request or require the removal of a particular assistance animal from the premises if the animal poses a direct threat (i.e., a significant risk of substantial harm) to the health or safety of other individuals that cannot be eliminated or reduced to an acceptable level by another reasonable accommodation, considering the health and safety of the other individual(s) and the need for an accommodation, or if the animal would cause substantial physical damage to the property of others that cannot be reduced or eliminated by another reasonable accommodation. _____ will base such determinations upon consideration of the behavior of the particular animal at issue, and not on speculation or fear about the types of harm or damage an animal may cause.
- F. When assistance animals are in common or public areas, they must be kept on a leash or in a carrier or cage, unless those devices prevent assistance animals from performing a disability-related task. Additionally, like any other tenant, owners of assistance animals remain subject to the provisions of their leases, with the exception that they are allowed to occupy the

premises with their assistance animals. Similarly, owners of assistance animals shall comply with all state and local animal laws, including such laws or ordinances requiring animal owners to clean up animal waste, except when such laws are preempted by the Fair Housing Act, Section 504 of the Rehabilitation Act, or the Americans with Disabilities Act or the owner is entitled to a reasonable accommodation.

- G. _____ may take action against the owner for noise or damages caused by an assistance animal to the same extent that it takes such action against tenants who have caused similar noise or damages

Attachment 4

FORM A: APPLICATION FOR REASONABLE ACCOMMODATION

Complete this form if you have a disability and would like to request an accommodation. If you require assistance completing this form, or wish to make this request orally, please contact _____ at _____.

Name: _____

Address: _____

Telephone: _____ E-mail: _____

Person requesting accommodation (if different from resident). Indicate relationship to resident:

1. Please describe the reasonable accommodation you are requesting:

2. Please explain why this reasonable accommodation is needed. You need not provide detailed information about the nature or severity of the disability.

3. If you are requesting permission to have an assistance animal in your apartment, please complete the following:
 - (a) Is it readily apparent that the assistance animal is a trained service animal (for example, an animal trained to assist you with a visual impairment or similar disability)?

Yes No
 - (b) If your answer to 3(a) above was No, please complete the following:
 - i. Type of animal: _____
 - ii. Is the animal required because of a disability? Yes No
 - iii. Does the animal perform work or do tasks for you because of your disability?

Yes No

IF THE ANIMAL PERFORMS WORK OR TASKS FOR YOU, PLEASE PROVIDE THE FOLLOWING:

- (1) A statement from a health or social service professional indicating that you have a disability (i.e., you have a physical or mental impairment that substantially limits one or more major life activities). You may use, but are not required to use, Form B.
- (2) An explanation of how the animal has been trained to do work or perform tasks that ameliorate one or more symptoms or effects of your disability or, if the animal lacks individual training, how animal is able to do work or perform tasks that ameliorate one or more symptoms or effects of your disability.
- (3) Please provide proof of current vaccination and/or license for the assistance animal requested

IF THE ANIMAL DOES NOT PERFORM WORK OR DO TASKS FOR YOU, BUT PROVIDES EMOTIONAL SUPPORT OR AMELIORATES ONE OR MORE EFFECTS OF YOUR DISABILITY, PLEASE PROVIDE THE FOLLOWING:

- (1) A statement from a health or social service professional indicating: (a) that you have a disability; (b) the animal would provide emotional support or other assistance that would ameliorate one or more symptoms or effects of your disability; and (c) how the animal ameliorates the symptoms or effect(s). You may use, but are not required to use, Form B.
- (2) Please provide proof of current vaccination and/or license for the assistance animal requested
4. If you are requesting a different modification or accommodation, please describe it here:

Please note, your request will be reviewed and a response issued to you within two weeks. Additional information may be requested before an approval can be issued.

Applicant Signature: _____

Date: _____

Attachment 5

Form B: Assistance Animal Requests: Health Care Professional Form

Name: _____

Address: _____

Telephone: _____ E-mail: _____

I, _____, intend to request that _____

permits me to keep an assistance animal as a reasonable accommodation for my disability. In connection with that application, I am requesting that you complete this form regarding my disability.

Applicant Signature

Date

TO BE COMPLETED BY HEALTH CARE PROFESSIONAL

NAME:

ADDRESS:

TELEPHONE NUMBER:

1. Does the individual identified above have a disability?

2. Does or would an assistance animal provide disability-related assistance to the individual? One example of assistance is alleviating one or more of the symptoms or effects of the disability.

3. For animals that do not perform work or do tasks for the individual, how would the animal ameliorate one or more of the symptoms or effects of the disability?

4. If you would like to submit additional supporting materials, please provide them with this form.

Name: _____

Signature: _____

Title: _____

Date: _____