

PREDETERMINATION SETTLEMENT AGREEMENT

CP# 04-16-68905
HUD# 07-16-4307-8

PARTIES TO THE SETTLEMENT AGREEMENT

RESPONDENTS

MAPLEWOOD VILLAGE CONDOMINIMS HOMEOWNERS ASSOCIATION

Board of Directors
C/O Tom Carmichael
413 SE Delaware Avenue
Ankeny, Iowa 50021

TOM CARMICHAEL

Maplewood Village Condominiums Homeowners Association
413 SE Delaware Avenue
Ankeny, Iowa 50021

COMPLAINANT

THRESE ELSBECKER

C/O Joan O'Brien
1250 41st Street
Des Moines, Iowa 50311

and

IOWA CIVIL RIGHTS COMMISSION

400 East 14th Street
Des Moines, Iowa 50319

Description of the Parties:

Complainant alleges discrimination in the area of housing on the basis of disability. Complainant alleges she made an offer to purchase a condominium contingent upon her assistance animal being approved. Complainant alleges Respondents failed to provide a reasonable accommodation, by refusing to waive their "no dogs" policy for her assistance animal which resulted in different terms and conditions of sale based on disability. Respondents deny having discriminated against Complainant, but agree to settle this claim in the underlying action by entering into this Predetermination Settlement Agreement. The subject property is a 173-unit condominium complex, Maplewood Village Condominiums, located at 413 SE Delaware Avenue, Ankeny, Iowa 50021.

Terms of Settlement:

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 against any person because of the person’s race, color, creed, sex, sexual orientation, gender identity, national origin, religion, disability, or familial status, in the terms, conditions, or privileges of the sale, rental, lease assignment, or sublease of any real property or housing accommodation or any part, portion, or interest in the real property or housing accommodation or in the provision of services or facilities in connection with the real property or housing accommodation. Iowa Code § 216.8(1)(b).
3. Respondents acknowledge the FHA and ICRA make it unlawful to refuse to make reasonable accommodations in rules, policies, practices, or services, when the accommodations are necessary to afford the person equal opportunity to use and enjoy a dwelling. 42 U.S.C. 3604(f)(3)(b) (§ 804(f)(3)(b) of the Fair Housing Act); Iowa Code § 216.8A(3)(c)(2).
4. 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).
5. 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 and associations 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 occupant or prospective occupant'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 occupant/prospective occupant'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 occupant or prospective occupant'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 or pet deposits 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

6. 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.
7. 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.
8. 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.
9. 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.
10. The parties acknowledge, if the Commission or the U.S. Department of Housing and Urban Development (HUD) has reasonable cause to believe that Respondents have 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

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. Respondents agree Tom Carmichael, manager, and Tom Pilcher, president of the Maplewood Village Condominium Homeowners Association's Board of Directors, 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 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. Respondents agree, within sixty (60) days of the execution of this 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 sixty (60) days of the execution of this Agreement to send documentation to the Commission detailing Respondents' said procedures with copies of their reasonable accommodation policy and applicable forms.

Prior to execution of purchase, if prospective occupants 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:

- Reasonable Accommodation Policy (Attachment 1)
- Assistance Animals Policy (Attachment 5)
- Guidelines Regarding Assistance Animals (Attachment 6)
- Application for Reasonable Accommodation (Attachments 2-4)

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.

Relief for Complainant

15. Respondents agree, on April 13, 2016, Complainant provided Respondents with a copy of the medical documentation issued to her by her health care provider (Attachment 7). In addition, Complainant has provided additional medical documentation for her health care provider dated May 17, 2016 (Attachment 8). Respondents also agree Complainant and her healthcare provider have completed Attachment 2, verifying her disability and need for an assistance animal (Attachment 9).

Respondents agree to grant Complainant's reasonable accommodation request and allow her assistance animal to live with her at the subject dwelling effective June 1, 2016.

Within ten (10) days of receiving a Closing Letter from the Commission, Respondents agree to send a letter to both Complainant and the Commission, stating documentation has been placed in Complainant's file verifying Respondents have granted her reasonable accommodation request and allowed her assistance animal to live with her at the subject dwelling.

16. Respondents agree all tenant rules, regulations and lease agreements will be enforced fairly and without harassment, discrimination or retaliation. Respondents agree to substantiate any complaints regarding Complainant's assistance animal before acting on such complaints. Complainant agrees to follow Respondents' rules, regulations and bylaws.

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 14 of this Agreement.
18. Within sixty (60) 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 their 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 ten (10) days of receiving a Closing Letter from the Commission, Respondents agree to send a letter to both Complainant and the Commission, stating documentation has been placed in Complainant's file verifying Respondents have granted her reasonable accommodation request and allowed her assistance animal to live with her at the subject dwelling, as evidence of compliance with Term 1 of this Agreement.
20. Complainant agrees, before she moves her assistance animal into her condo, she will provide Maplewood Village with a copy of a current City of Ankeny, Iowa dog license for her assistance animal. In addition, Complainant will provide documentation from her veterinarian showing her assistance animal has all current vaccinations, including rabies, as required by Respondents' "no-dog" rule. Complainant agrees to renew the city dog license annually and will submit proof of license to Maplewood Village on or before March 31. Complainant also agrees she will renew vaccinations on/before their expiration dates, and will provide proof of vaccinations to Maplewood Village.

All required documentation of compliance must be submitted to:

Don Grove
Iowa Civil Rights Commission
Grimes State Office Building
400 East 14th Street
Des Moines, Iowa 50319

Signatures on the following page

Maplewood Village Condominium Homeowners Association,
RESPONDENT

Date

Tom Carmichael, RESPONDENT

Date

Therese Elsbecker, COMPLAINANT

Date

Kristin H. Johnson, DIRECTOR
IOWA CIVIL RIGHTS COMMISSION

Date