

PREDETERMINATION SETTLEMENT AGREEMENT

CP# 05-17-70519
HUD# 07-17-6650-8

PARTIES TO THE SETTLEMENT AGREEMENT

RESPONDENTS

LORI SWINTON
Deneui Holdings, Inc.
350 1st Avenue NW Suite 100
Waverly, Iowa 50677

DENEUI HOLDINGS, INC.
167 Hernandez Avenue
San Francisco, California 94127

COMPLAINANT

PAMELA R. GULICK
401 24TH Street NW Apartment 10
Waverly, Iowa 50677

and

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

Description of the Parties: Complainant identifies her two children as persons with disabilities. Complainant alleges that each child requires their own assistance animal to provide emotional support that alleviates one or more identified symptoms or effects of each of the children’s disabilities. Complainant alleges Respondents failed to provide a reasonable accommodation by refusing to waive their “one pet per household” policy to allow both of her children to have an assistance animal and this resulted in different terms, conditions or privileges of rental housing based on disability. Respondents own or manage the subject property, a 12-unit apartment complex known as Willow Run, located at 401 24th Street NW, Waverly, Iowa 50677.

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 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).
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 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

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.

Disclosure

10. 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

11. 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 Posters

12. Within thirty (30) of the execution of this Settlement Agreement, Respondents agree to place the Fair Housing Poster (English and Spanish) in each property management office, in a conspicuous location, easily viewable to tenants and prospective tenants. The Fair Housing Posters can be obtained online at:

<https://icrc.iowa.gov/sites/default/files/publications/2015/2015FairHousingPosterGeneral.pdf>

<https://icrc.iowa.gov/sites/default/files/publications/2015/2015FHPosterGeneralSpanish.pdf>

Respondents also agree to send documentation to the Commission, verifying the fair housing posters have been posted, within ten (10) days of displaying the posters.

Relief for Complainant

13. Respondents agree to grant Complainant's reasonable accommodation request and allow each of her children to have an assistance animal (emotional support cat) live with them at the subject dwelling after Complainant has met the following conditions for approval. These conditions are contingent upon all the parties executing this Agreement and returning it to the Commission and the Commission subsequently issuing a Closing Letter for said complaint.
 - a. Complainant obtained proof that emotional support cat #1 was vaccinated by Veterinarian Kent L. Melick on March 20, 2017 (Attachment 1 and 2). This vaccination will be renewed on/before its expiration March 20, 2018, and Complainant will give proof of renewal to Respondents on or prior to this expiration date.
 - b. Prior to moving emotional support cat #2 into the subject dwelling, Complainant will provide to both Lori Swinton and the Commission proof of vaccination for emotional support cat #2. This vaccination will be renewed on/before its expiration date, and proof of renewal be given to Respondents on or prior to the expiration date.
 - c. Complainant agrees that each assistance animal will be treated for fleas at all times. Complainant has ordered 12 doses (Attachment 3) and agreed to apply Advantage Once-A-Month Topical Flea Treatment to each assistance animal monthly. Each time Complainant purchases flea treatment she will provide proof of purchase to Respondents on or prior to the expiration date for the flea treatment.
14. Respondents agree all tenant rules, regulations, and lease agreements will be enforced fairly and without harassment, discrimination, or retaliation. Complainant agrees to follow Respondents' rules and regulations, as well as the terms of her lease agreement. Complainant agrees she is solely responsible for the conduct of the assistance animals.

Reporting and Record-Keeping

15. Respondents agree to send documentation to the Commission verifying the Fair Housing Posters have been displayed within ten (10) days of their placement in the management offices, as evidence of compliance with Term 12 of this Agreement.
16. Complainant agrees to provide to both Lori Swinton and the Commission proof of vaccinations for both assistance animals, and agrees to provide proof of renewal to Respondents on or prior to the expiration dates, as evidence of compliance with Term 13a and 13b of this Agreement.

17. Complainant agrees to provide proof that both assistance animals are treated for fleas at all times by providing Respondents with proof of purchase of flea treatments upon purchase, as evidence of compliance with Term 13c of this Agreement.

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

Natalie Burnham
Iowa Civil Rights Commission
Grimes State Office Building
400 East 14th Street,
Des Moines, Iowa 50319
Natalie.Burnham@iowa.gov

Lori Swinton, RESPONDENT

Date

Deneui Holdings, Inc. RESPONDENT

Date

Pamela R. Gulick, COMPLAINANT

Date

Kristin H. Johnson, DIRECTOR
IOWA CIVIL RIGHTS COMMISSION

Date