

PREDETERMINATION SETTLEMENT AGREEMENT

CP# 04-13-64043

HUD# 07-13-0437-8

PARTIES TO THE SETTLEMENT AGREEMENT:

RESPONDENTS

MULBERRY ROAD, INC.

c/o Frances Behrends

21270 Highway 9 East

Forest City, IA 50436

FRANCES BEHREND

21270 Highway 9 East

Forest City, IA 50436

LEON BEHREND

21270 Highway 9 East

Forest City, IA 50436

COMPLAINANT

MARY CHAPMAN

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

\$200 non-refundable "pet deposit" policy and \$25 monthly "pet fee" for an assistance animal and this resulted in different terms and conditions of rental and a denial of rental housing based on disability. Respondents own or manage the subject property, an 8-plex, located at 736 South 7th Street, Forest City, IA 50436.

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 Iowa Code Chapter 216; or because of giving testimony or assistance, or participating in any manner in any investigation, proceeding or hearing

under Iowa Code Chapter 216; or because of lawful opposition to any practice forbidden under Iowa Code Chapter 216.

2. The parties acknowledge Federal and State Fair Housing laws make 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, in violation of Iowa Code Chapter 216.

3. The parties acknowledge Federal and State Fair Housing Laws 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); Iowa Code § 216.8A(3)(a)(1).

4. The parties acknowledge Federal and State Fair Housing Laws 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); Iowa Code § 216.8A(3)(c)(2).

5. The parties acknowledge Federal and State Fair Housing Laws 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) and Iowa Code § 216.8A(3)(b)(1)

6. Respondents acknowledge their obligation under State and Federal Fair Housing Laws 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 categorized as either service animals, emotional support animals, or companion animals are not considered pets under the Fair Housing Act and cannot be subjected to pet rules, pet fees or pet deposits.

Respondents acknowledge that allowing a service animal or emotional support animal qualifies as a reasonable accommodation if the animal is needed to assist an individual with a disability as required by law. Under State and Federal Fair Housing Laws, an assistance animal qualifies as a reasonable accommodation if the animal provides assistance or performs tasks for the benefit of the individual with a disability, such as guiding visually impaired individuals, alerting hearing impaired individuals to sounds and noises, providing protection or rescue assistance, pulling a wheelchair, seeking and retrieving items, alerting individuals to impending seizures, and providing emotional support to persons who have a disability and a need for such support.

Landlords cannot restrict the type of dog, size or weight of assistance animals and cannot require special tags, equipment, certification or special identification of assistance animals.

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/prospective tenant's need for the accommodation i.e. the relationship between the person's disability and the need for the requested accommodation.

The parties agree a housing provider can deny a request for a reasonable accommodation where authorized by law, including, but not limited to: if there is no disability-related need for the accommodation; if the request for the reasonable accommodation would impose an undue financial and administrative burden on the Respondent; or if the request fundamentally alters the nature of Respondent's operations.

The US Department of Justice Civil Rights Division's May 17, 2004, Joint Statement with HUD states: "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."

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. The parties agree the terms of this Agreement shall be subject to public disclosure unless Complainant and Respondents agree otherwise, and the Commission determines that disclosure is not necessary to further the purposes of Iowa Code Chapter 216 relating to unfair or discriminatory practices in housing or real estate.

#### 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, and with regard to any and all other matters, 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 Leon and Frances Behrends 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, to the attention of Don Grove, Supervisor of Investigations, 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 and procedures 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., and include the following provisions:

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 use the following forms:

- Request for Reasonable Accommodation (Attachments 2 and 3), and
- Approval or Denial of Reasonable Accommodation Request

(Attachment 4)

Oral requests for reasonable accommodations shall be recorded by Respondents' employees or agents using the "Request" form, Attachment 3.

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.

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 and procedures to each current and future resident who has requested an accommodation, in a form substantially equivalent to Attachment 1.

#### Review of Tenant Files

15. Respondents agree to review all current tenant files to determine whether their 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 notifying all their current tenants that 2013 is the 45th Anniversary of the Fair Housing Act, by printing a full-color flyer and distributing the flyer to each of their tenants on or before June 30, 2013. The flyer will be a minimum size of 8.5" x 11" and Respondents agree to access the flyer online at:  
[http://portal.hud.gov/hudportal/documents/huddoc?id=nfha\\_hud\\_12\\_en\\_chalkflag.pdf](http://portal.hud.gov/hudportal/documents/huddoc?id=nfha_hud_12_en_chalkflag.pdf)

Prior to the printing the flyers, Respondents agree to add the following contact information for the Commission to the flyer directly below the contact information for HUD or at the bottom of the flyer:

Or Contact the Iowa Civil Rights Commission at 515-281-4121 or

Toll Free at 1-800-457-4416 or online at <http://www.state.ia.us/government/crc/>

Respondents also agree to send a copy of the flyer distributed to tenants to the Commission, verifying the fair housing flyers have been distributed with a list of the address for each property with the number



of rental units at each property that received the flyer, to the attention of Don Grove, Supervisor of Investigations, within ten (10) days of distributing the flyer.

Signatures on the Following Page (Page 7)

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Mulberry Road, Inc., RESPONDENT

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Date

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Frances Behrends, RESPONDENT

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Date

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Leon Behrends, RESPONDENT

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Date

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Mary Chapman, COMPLAINANT

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Date

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Beth Townsend, DIRECTOR

Date

IOWA CIVIL RIGHTS COMMISSION

#### Attachment 1

#### Reasonable Accommodation Policy for Persons with Disabilities

If a tenant or someone associated with a tenant has a disability, he/she may request a reasonable accommodation. Accommodations in rules, policies, practices, or services may be made when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling.

It is preferred that all requests for reasonable accommodations be submitted in writing to the Apartment Manager. Forms to request reasonable accommodations are available in the rental or leasing office. If a tenant or household member has difficulty completing the form, the Apartment Manager will assist him/her. Oral requests for reasonable accommodations will be recorded and processed in accordance with this policy.

Within fourteen (14) days of receiving the request for reasonable accommodation, the Apartment Manager will notify the person making the request whether the request was granted or denied, or whether additional information is needed before a decision can be made. If the request is denied, the Apartment Manager will include an explanation in the written notification.

If the request is denied, the affected tenant or household member may contact the Iowa Civil Rights Commission or the U.S. Department of Housing and Urban Development.

Iowa Civil Rights Commission

400 East 14th Street

Des Moines, Iowa 50319

515-281-4121 or 800-457-4416

U.S. Department of Housing and Urban Development

Office of Fair Housing & Equal Opportunity

400 State Avenue

Gateway Tower II

Kansas City, Kansas 66101

913-551-6958 or 800-743-5323

Attachment 2

Request for Reasonable Accommodation

If you, a member of your household, or someone associated with you has a disability, and feel that there is a need for a reasonable accommodation for that person to fully enjoy the premises or have equal opportunity to use and enjoy a dwelling unit or the public or common use areas, please complete this form and return it to your Apartment Manager. Check all items that apply and explain fully. The Apartment Manager will assist you in completing this form, and will answer this request in writing within two weeks (or sooner if the situation requires an immediate response).

Name of Tenant or Applicant: \_\_\_\_\_

Today's Date: \_\_\_\_\_

Signature of Tenant or Applicant: \_\_\_\_\_

The person who has a disability requiring a reasonable accommodation is:

Me

A person associated or living with me

Name of person with disability: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

I am requesting the following change(s) in rule, policy, or practices so that I and persons associated or living with me can live here with equal opportunity to use and enjoy the premises.

I need the following change(s):

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I need this reasonable accommodation because:

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Requester \_\_\_\_\_ Date \_\_\_\_\_

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Apartment Manager \_\_\_\_\_ Date \_\_\_\_\_

Attachment 3

Request for Reasonable Accommodation

[To be completed by Apartment Manager if Requester cannot or will not complete written form.]

On \_\_\_\_\_, the undersigned Tenant or Applicant orally requested a reasonable accommodation. He/she requested the following change(s) in rule, policy or practices:

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Signature of Tenant or Applicant: \_\_\_\_\_

Name of Tenant or Applicant: \_\_\_\_\_

Address: \_\_\_\_\_

Date: \_\_\_\_\_

I, the undersigned, Apartment Manager of \_\_\_\_\_ Apartments:

☐ Gave the Tenant or Applicant the form, “Request for Reasonable Accommodation” and offered to assist in completing the form.

☐ Granted the request.

☐ Explained the request could not be evaluated until the following additional information is provided.

\_\_\_\_\_

Apartment Manager

Date

Attachment 4

Approval or Denial of Reasonable Accommodation Request

Dear: \_\_\_\_\_

Address: \_\_\_\_\_

On \_\_\_\_\_, you requested the following reasonable accommodation:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

We have reviewed your request and we have decided:

☐ To approve your request. We will make the following change(s) in rule, policy or practices:

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Date change(s) will be made: \_\_\_\_\_

☐ To deny your request. We denied your request because:

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In making this denial decision, we relied on information provided by the following people or documents:

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☐ To seek further information from you about your request. We cannot approve or deny your request without additional information or documentation. Please provide:

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\_\_\_\_\_

Apartment Manager

Date