

# **PREDETERMINATION SETTLEMENT AGREEMENT**

CP# 09-15-68005  
HUD# 07-16-0057-8

## **PARTIES TO THE SETTLEMENT AGREEMENT**

### **RESPONDENTS**

#### **WILLIAM P. "CHIP" SCHWICKERATH**

1970 North Linn Avenue  
PO Box 92  
New Hampton, Iowa 50659

#### **DARLENE SCHWICKERATH**

1970 North Linn Avenue  
PO Box 92  
New Hampton, Iowa 50659

#### **C & D RENTALS, LLC**

1970 North Linn Avenue  
New Hampton, Iowa 50659

### **COMPLAINANT**

#### **CRYSTAL VOSHELL (A.K.A. MIRIAM ROCK)**

PO Box 92  
New Hampton, Iowa 50659

and

#### **IOWA CIVIL RIGHTS COMMISSION**

400 East 14th Street  
Des Moines, Iowa 50319

#### Description of the Parties:

Complainant alleges Respondents' rules for her assistance animal are so unreasonable that they, in effect, deny her right to a reasonable accommodation and have resulted in different terms and conditions of rental based on disability. Respondents own or manage the subject property, an eight-unit apartment building, located at 525 West Spring Street, New Hampton, Iowa 50659.

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 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 ICRA makes it unlawful 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 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 of race, color, religion, sex, familial status, or national origin.  
42 U.S.C. 3604(f)(1)(a) (§ 804(f)(1) of the Fair Housing Act).

4. 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 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. Respondents agree William "Chip" Schwickerath, Darlene Schwickerath, Megan Abbas, 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 within 30 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 and implement policies, procedures and forms for such requests. The training shall be conducted by the Commission via telephone and Respondents will be at a computer during the training.

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 modify their existing Assistance Animal Request for Verification Form and Service and Assistance Animal Policy to comply with the requirements of the FHA and ICRA. In addition, Respondents agree 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, procedures, and forms shall comply with the requirements of the FHA and ICRA.

Respondents agree within thirty (30) days of the execution of this Agreement to send documentation to the Commission detailing Respondents' said procedures with a copy of their reasonable accommodation policy and applicable forms, Service and Assistance Animal Policy and Assistance Animal Request for Verification Form.

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:

- Reasonable Accommodation Policy
- Assistance Animals Policy
- Guidelines Regarding Assistance Animals
- Application for Reasonable Accommodation
- 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 agrees 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, or the implementation of their policies and procedures Respondents shall promptly correct those errors by notifying the affected residents, granting the requests for reasonable accommodations, refunding any monies unlawfully collected for pet fees or deposits and fines.

Within ninety (90) days of the execution of this 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. Complainant has given Respondents a 30-Day termination notice and will vacate Apartment 7 on or before December 31, 2015. Respondents agree, during the remainder of Complainant's tenancy, they will not enforce any of their existing rules and procedures that do not comply with the requirements of the FHA and ICRA.

Once Complainant has vacated Apartment 7, Respondents agree to do a check-out of Apartment 7, with Complainant and her representative present, to confirm that it has been turned over to Respondents in the same condition as when Complainant moved in, on January 1, 2015, normal wear and tear excepted.

Respondents agree to follow the provisions of Iowa Code §562A.12 regarding the disposition of Complainants' security deposit tendered to them pursuant to the lease agreement.

Within seven (7) days of disbursing the rental deposit monies, Respondents agree to submit a written report to the Commission, detailing any charges deducted for cleaning or damage for Apartment 8.

17. 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 receives her Social Security check on the third of each month and has paid her rent upon receipt. Respondents agree not to charge Complainant any late fees for paying her rent after the first day of the month.

Complainant agrees to follow Respondents' rules and regulations and lease agreement. Complainant agrees she is solely responsible for the conduct of her assistance animal.

18. Respondents agree to pay Complainant \$3,000.00 without any deductions. Respondents agree the Settlement Check will be made out to Complainant and will be mailed to Complainant at the address listed on page one of this Agreement, within seven business days of Respondents' receipt of the Commission's Closing Letter. Complainant shall be fully liable for any taxes associated with the settlement amount.

Respondents also agree to send a copy of the Settlement Check to the Commission within seven (7) days of issuing the check to Complainant.

### **Reporting and Record-Keeping**

19. 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 Commission within ten (10) days of the completion of the training, as evidence of compliance with Term 13 of this Agreement.

20. Within thirty (30) days of the execution of this Agreement, Respondents shall submit a written report to the Commission detailing Respondents' reasonable accommodation procedures with a copy of their reasonable accommodation policy, assistance animal rules and applicable request forms, as objective evidence that Respondents have adopted and implemented specific, uniform, and objective written standards, procedures, rules 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.

21. Within ninety (90) days of the execution of this 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.

22. Respondents also agree to send a copy of the Settlement Check to the Commission within seven (7) days of issuing the check to Complainant

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

Signatures on the Following Page (Page 9)



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William P. “Chip” Schwickerath, RESPONDENT

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Date

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Darlene Schwickerath, RESPONDENT

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Date

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C & D Rentals, LLC, RESPONDENT

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Date

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Crystal Voshell (aka Miriam Rock), COMPLAINANT

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Date

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Kristin H. Johnson, DIRECTOR  
IOWA CIVIL RIGHTS COMMISSION

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Date