

PREDETERMINATION SETTLEMENT AGREEMENT

CP# 05-14-65834

HUD# 07-14-0489-8

PARTIES TO THE SETTLEMENT AGREEMENT:

RESPONDENTS

CBM, LLC

c/o McCullough Development

PO Box 1088

Manhattan, Kansas 66505

MCCULLOUGH DEVELOPMENT

PO Box 1088

Manhattan, Kansas 66505

BRIAN EDISON

Timber Hills Apartments

PO Box 3663

Urbandale, Iowa 50323

COMPLAINANT

ANGELA WILLIAMS

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 an assistance animal (service animal) and this resulted in different terms, conditions or privileges of rental, and a denial of rental housing based on disability. The subject property is a six-unit apartment complex located at 14115 Airline Avenue, Urbandale, IA 50323 (hereinafter "The Property"). Respondent CBM, LLC owns the Property. Respondent McCullough Development manages the Property. As of the date of this Predetermination Settlement Agreement, Brian Edison has resigned from his position as Caretaker for the Property and will no longer be employed by McCullough Development after September 5, 2014.

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); 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); 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); 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 - defined as service animals, emotional

support animals, or companion animals – are not considered pets under the FHA and ICRA and cannot, therefore, be subjected to pet fees or pet deposits.

Respondents acknowledge that allowing an assistance animal qualifies as a reasonable accommodation if the animal is needed to assist an individual with a disability as required by law. Under the FHA and ICRA, 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.

Housing providers 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 or prospective tenant's need for the accommodation, i.e., the relationship between the person's disability and the need for the requested accommodation.

Respondents acknowledge a housing provider can deny a request for a reasonable accommodation if it would impose an "undue financial and administrative burden" or it would "fundamentally alter the nature of the provider's operations." "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.

## 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. Respondents agree the Commission may review compliance with this Agreement. And as part of such review, Respondents agree the Commission may, at a time and place agreeable to both the Respondents and the Commission examine witnesses, collect documents, or require written reports, all of which will be conducted in a reasonable manner, upon reasonable notice to the Respondents, 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 Training

12. Respondents provided documentation that on June 9, 2014, Respondent Brian Edison completed Grace Hill's Fair Housing II class. Respondents agree that each of Respondents' current employees or agents who are involved in the management or operation of the Property will receive training on the requirements of State and Federal Fair Housing Laws within 120 days of their receipt of a Closing Letter from the Commission. In addition, each of Respondents' current employees or agents who are involved in the management or operation of their residential rental properties located in Iowa will complete fair housing training on an annual basis. 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. The Grace Hill Fair Housing II training session is considered approved trainings under this paragraph.

Respondents also agree to send documentation to the Commission, verifying the fair housing training has been completed, by each of Respondents' current employees or agents who are involved in the management or operation of the Property, within ten (10) days of completing the training.

#### New Policy and Practice

13. For all residential rental properties owned and managed in Iowa, now and in the future, Respondents agree, within sixty (60) 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 sixty (60) 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 for Persons with Disabilities in a form substantially equivalent to Attachment 1. 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 use the following forms:

- Request for Reasonable Accommodation (Attachment 2), or
- Oral requests for reasonable accommodations shall be recorded by Respondents' employees or agents using the "Request" form,  
(Attachment 3)
- Approval or Denial of Reasonable Accommodation Request  
(Attachment 4)

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

14. Respondents agree to review all current tenant files in Iowa 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 one hundred twenty (120) 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

15. 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 in the

Property on or before September 15, 2014. Respondents agree to access the brochure on the Commission's website at:

[https://icrc.iowa.gov/sites/files/civil\\_rights/publications/2013/FairHousing\\_English\\_2013.pdf](https://icrc.iowa.gov/sites/files/civil_rights/publications/2013/FairHousing_English_2013.pdf)

Respondents also agree to send a statement to the Commission, on or before September 15, 2014, verifying that the brochure was, in fact, distributed to each of their tenants with the number of rental units it was distributed to.

### Reporting and Record Keeping

16. 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 12 of this Agreement.

17. 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 13 of this Agreement.

18. Within one hundred twenty (120) 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 14 of this Agreement.

19. On or before September 15, 2014 Respondents will send a written statement to the Commission verifying the "Fair Housing and You," brochure has been distributed to all of their tenants in the Property, as evidence of compliance with Term 15 of this Agreement.

Relationship Between Respondents

20. Upon Respondent Brian Edison's termination of employment with Respondents effective September 5, 2014, Respondents CBM, LLC and McCullough Development shall have no obligation or responsibility for his future actions, and shall not be liable for any breach of or noncompliance with this Predetermination Settlement Agreement by Brian Edison.

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

This Agreement may be executed in several counterparts, and as so executed, shall constitute one agreement binding on all parties hereto, notwithstanding that all of the parties have not signed the same counterpart.

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CBM, LLC, RESPONDENT

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Date

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McCullough Development, RESPONDENT

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Date

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Brian Edison, RESPONDENT

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Date

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Angela Williams, COMPLAINANT

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Date

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Beth Townsend, DIRECTOR

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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 \_\_\_\_\_

To be completed by Applicant's health care provider if the disability-related need for the assistance animal is not readily apparent to or already known by the Landlord

Does the Applicant have a physical or mental impairment that substantially limits one or more major life activities? Yes \_\_\_\_\_ No \_\_\_\_\_

Is an assistance animal required to work, provide assistance, perform tasks or services to relieve the Applicant's physical or mental impairment, or to provide emotional support that alleviates one or more of the identified symptoms or effects of the Applicant's existing physical or mental impairment? Yes \_\_\_\_\_ No \_\_\_\_\_

If you answered "yes" please explain what disability-related assistance or emotional support the assistance animal provides to alleviate one or more of the identified symptoms or effects of an existing disability. If the disability is not obvious, housing providers may request that a health care provider verify the disability. Health care providers are not required to provide descriptive details about the disability or the specific diagnosis.

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Health Care Provider

Date

Business Address of Health Care Provider:

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