

**UNITED STATES OF AMERICA  
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
OFFICE OF ADMINISTRATIVE LAW JUDGES**

The Secretary, United States	)	
Department of Housing and Urban	)	
Development, on behalf of	)	
Shawn Heichel and her minor daughter,	)	
	)	
Charging Party,	)	HUDALJ: 11-F-056-FH-19
	)	
v.	)	FHEO No.: 07-10-0931-8
	)	
John J. and Nancy A. Meany,	)	
	)	
Respondents.	)	
_____	)	

**INITIAL DECISION AND CONSENT ORDER**

**I. BACKGROUND**

On August 19, 2011, the United States Department of Housing and Urban Development ("Charging Party" or "HUD") issued a Charge of Discrimination ("Charge") alleging Respondents John J. and Nancy A. Meany<sup>1</sup> ("Respondents") violated Sections 3604(f)(2)(B) and (f)(3)(B) of the Fair Housing Act ("Act") by failing to grant Complainant Shawn Heichel's reasonable accommodation request to modify their "No Pet Policy."

Respondents deny they violated the Act as alleged in the Charge, but agree to settle the claims in the underlying action in order to avoid the additional cost and expense of litigation by entering into this Initial Decision and Consent Order ("Consent Order"). The entry of this Consent Order shall not be deemed as an admission of fault or liability by Respondents.

**II. GENERAL PROVISIONS**

- I. The parties acknowledge that this Consent Order is a voluntary and full resolution of the disputed complaint. No party has been coerced, intimidated, threatened, or in any way forced to become a party to it. The parties acknowledge that they have read and fully understand the significance of the provisions of this Consent Order and their obligations hereunder. The parties acknowledge that the terms set forth herein are contractual and not merely a recital of the parties' intentions.

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<sup>1</sup> Respondent's legal name listed on county and state records is John Joseph or John J. Meany. However, Respondent is also known as Joe Meany.

2. The parties and counsel agree that in the interest of a prompt conclusion of this matter, the execution of this Consent Order may be accomplished by the parties' signatures on separate pages of this Consent Order, with the individual signature pages to be attached to the body of the Consent Order to constitute one document to be filed with the Office of Administrative Law Judges ("ALJ"). Signature of the parties to this Consent Order may be executed by way of facsimile or electronic transmission.
3. The parties agree that the Charging Party shall file with the ALJ a Joint Motion for Entry of an Initial Decision and Consent Order, along with the Initial Decision and Consent Order, after the Consent Order is executed by all parties.
4. This Consent Order is binding upon Respondents, their employees, heirs, successors, agents, assigns and all others in active concert with them in the ownership and operation of the two-story building with four apartment rental units located at 515 8th Street, Traer, Iowa ("subject property").
5. The parties agree that if a party to this agreement needs an extension of time in order to satisfy a deadline provided in this Consent Order, such extension must be obtained in writing by mutual agreement of the parties.
6. Pursuant to 24 C.F.R. § 180.680(a), the parties understand that this Consent Order shall be a public document.
7. The signatures of the parties to this Consent Order constitute a waiver of any right to apply for additional attorney's fees or costs pursuant to 24 C.F.R. § 180.705. Each party is responsible for its own attorney's fees and costs.
8. This Consent Order does not in any way limit or restrict HUD's authority to investigate any other complaints involving Respondents, made pursuant to the Act, or any other complaints within HUD's jurisdiction.
9. Respondents acknowledge they have an affirmative duty not to discriminate under the Act, and that it is unlawful to retaliate against any person because that person has made a complaint, testified, assisted, or participated in any manner in a proceeding under the Act. Respondents further acknowledge that any subsequent retaliation or discrimination constitutes both a material breach of this Consent Order, and statutory violation of the Act.

### III. MUTUAL RELEASE

10. In consideration of the execution of this Consent Order, Complainant Shawn Heichel and Rachelle Heichel hereby forever waive, release, and covenant not to sue HUD or Respondents John J. and Nancy A. Meany, their heirs, executors, assigns, agents, employees, attorneys with regard to any and all claims, damages and injuries of whatever nature whether presently known or unknown, arising out of the subject matter of HUD

Case Number 07-10-0931-8/HUDALJ 11-F-056-FH-19 or which could have been filed in any action or suit arising from said subject matter.

11. In consideration of the execution of this Consent Order, Respondents John J. and Nancy A. Meany hereby forever waive, release, and covenant not to sue HUD, Complainant Shawn Heichel or Rachelle Heichel, their successors, assigns, agents, officers, board members, employees and attorneys with regard to any and all claims, damages and injuries of whatever nature whether presently known or unknown, arising out of the subject matter of HUD Case Number 07-10-0931-8/HUDALJ 11-F-056-FH-19 or which could have been filed in any action or suit arising from said subject matter.

#### **IV. RELIEF FOR COMPLAINANT AND AGGRIEVED PERSON**

12. Within fifteen (15) days of the entry of this Consent Order, Respondents shall pay to Complainant Shawn Heichel the sum of Seven Thousand Five Hundred Dollars (\$7,500) in full settlement of her claims for damages arising out of the allegations presented in the Charge. Such payment shall be by certified check, payable to Shawn Heichel and sent to her by certified mail or overnight mail. Respondents shall send a copy of the certified check and a copy of the mailing tracking receipt to the attention of Alphonso L. Eason, Attorney-Advisor, Office of Regional Counsel, U.S. Department of Housing and Urban Development, Gateway Tower II, 400 State Avenue, Kansas City, Kansas 66101.

#### **V. ACTIONS IN THE PUBLIC INTEREST**

13. Injunction from Discrimination

Respondents, their agents, employees, successors, and assigns, and all other persons in active concert or participation with any of them in the ownership or operation of the subject property, are hereby enjoined from discriminating on the basis of disability in any aspect of the rental or sale of a dwelling as proscribed in the Fair Housing Act, 42 U.S.C. §§ 3601 *et seq.*

14. Adoption and Implementation of Reasonable Accommodation Policy

- a. Within seventy (70) days of the entry of this Consent Order, Respondents shall adopt and implement the specific guidelines provided in Appendix A through E for receiving and handling requests for reasonable accommodations made by individuals with disabilities, collectively entitled "Reasonable Accommodation Policy." Respondents shall provide notice and documentation to HUD within ten (10) days of their adoption and implementation of the Reasonable Accommodation Policy.
- b. Respondents shall, no later than ten (10) days after its adoption, notify in writing each resident of the subject property of the adoption and implementation of the Reasonable Accommodation Policy and shall provide a copy of the policy (Appendix A) with such notification. Respondents shall provide notice to HUD

within ten (10) days of this notification to residents. The notification to HUD shall include a copy of the notice and attachment sent to the residents.

- c. Throughout the duration of this Consent Order, Respondents shall maintain records regarding their implementation of the Reasonable Accommodation Policy, including their receipt and processing of reasonable accommodation requests.
- d. If Respondents sell the subject property within sixty (60) days of the entry of this Consent Order and no longer have any ownership and/or management interest in the subject property, Respondents shall not be required to comply with the requirements regarding adoption and implementation of a Reasonable Accommodation Policy in Paragraphs 14(a) through (c).

15. Mandatory Education and Training

Within one hundred and eighty (180) days of the entry of this Consent Order, Respondent Nancy Meany agrees to attend four (4) hours of Fair Housing Training pertaining to her obligations under the Fair Housing Act and applicable state and local non-discrimination laws. The Fair Housing Training is to be conducted by HUD's Office of Fair Housing and Equal Opportunity at a mutually agreed upon location in Iowa. Written approval to schedule the training session must be solicited and obtained from the FHEO Region VII Director (address below) at least thirty (30) days prior to the commencement of the training.

16. Fair Housing Poster and Emblem

- a. Fair Housing Poster: Within ten (10) days of the entry of this Consent Order, Respondents shall display a HUD Fair Housing Poster, provided by HUD, in a conspicuous location at the subject property, such as a place where Respondents post notices for residents. The poster shall be displayed during the term of this Consent Order.
- b. Fair Housing Emblem: Within ten (10) days of the entry of this Consent Order, Respondents agree to publish the following Fair Housing Emblem in all advertisements concerning the subject property.



## **VI. REPORTING AND RECORDKEEPING**

### **17. Reporting**

Respondents shall, for the duration of this Consent Order and no less than ten (10) days after their occurrence, give written notice and documentation to HUD (addresses listed in Paragraph 19 below) of the occurrence of any of these events as set out below:

- a. Respondents shall submit a photocopy of the certified check identified in Paragraph 12, together with a copy of the mailing delivery tracking report or certified mail receipt as evidence of delivery, to Alphonso L. Eason, Attorney-Advisor.
- b. If applicable, the adoption and implementation of the Respondents' Reasonable Accommodation Policy required in Paragraph 14(a).
- c. If applicable, the written notification to all residents as required in Paragraph 14(b).
- d. If Respondents sell the subject property during the term of this Consent Order, Respondents shall notify the Department and provide documentation of the sale of the subject property.
- e. If either Respondent reenters the residential rental business during the term of this Consent Order, Respondents shall notify the Department and provide the address of the residential rental property.<sup>2</sup>
- f. Completion of the training required in Paragraph 15.
- g. Respondents shall submit a written declaration under penalty of perjury to the FHEO Regional Director, Region VII, that they have complied with Paragraph 16(a) by displaying a Fair Housing Poster in the specified location.
- h. Respondents shall submit a copy of each advertisement that was published in compliance with Paragraph 16(b).
- i. Any denial of a reasonable accommodation request at the subject property.
- j. The filing of any complaint against the Respondents with a local, state or federal agency regarding equal opportunity or discrimination in housing. Respondents shall provide a copy of the complaint with the notification to HUD. Respondents shall promptly provide HUD with all information it may request concerning any such complaint and its actual or attempted resolution.

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<sup>2</sup> For purposes of this Consent Order, reentering the residential rental business means acquiring an ownership interest in a residential rental property or engaging in transactions related to the rental and/or management of a residential rental property.

18. Recordkeeping

For the duration of this Consent Order, Respondents shall preserve all records relating to (1) complaints against them or their agents or employees of discrimination in housing on the basis of disability, (2) their receipt and processing of requests for reasonable accommodation, and (3) advertising records reflecting the use of the Fair Housing Emblem.

19. Verifications and Notifications

Unless otherwise indicated, all required verifications and notifications of compliance with this Consent Order must be submitted to HUD as follows:

Myrtle Wilson, Director  
Region VII  
Office of Fair Housing and Equal Opportunity  
U.S. Department of Housing and Urban Development  
Gateway Tower II  
400 State Avenue  
Kansas City, KS 66101-2406

Alphonso L. Eason, Attorney-Advisor  
Office of Regional Counsel  
U.S. Department of Housing and Urban Development  
Gateway Tower II  
400 State Avenue  
Kansas City, KS 66101-2406

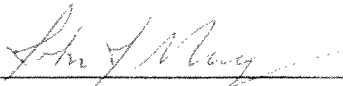
**VII. COMPLIANCE**

20. During the term of this Consent Order, HUD may review compliance with this Consent Order. As part of such review, HUD may, upon providing advance notice of said inspection, inspect Respondents' property identified in Paragraph 4, examine witnesses, and copy pertinent records of Respondents. Respondents agree to provide their full cooperation in any review undertaken by HUD to ensure compliance with this Consent Order.
21. Upon breach of any provision of this Consent Order, HUD may refer this matter to the Department of Justice to petition the United States Court of Appeals for the Eighth Circuit to enforce the Consent Order and for any other appropriate relief in accordance with 42 U.S.C. § 3612(j).

**VIII. ADMINISTRATION**

22. This Consent Order shall remain in effect for a period of three (3) years from its effective date.
23. This Consent Order is entered pursuant to 42 U.S.C. § 3612(g) and 24 C.F.R. § 180.450. This Consent Order shall become final upon the expiration of thirty (30) days from the date of its issuance or affirmance by the Secretary within that time. 42 U.S.C. § 3612(h); 24 C.F.R. § 180.680(b)(2).
24. The signatures of the parties to this Consent Order constitute a waiver of any right to withdraw their consent during the thirty (30) day Secretarial review period, and a waiver of any right to challenge the validity of the Consent Order at any time.

**RESPONDENTS:**


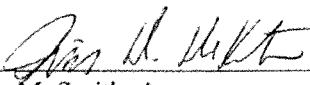
  
\_\_\_\_\_  
John J. Meany

11/30/11  
Date

  
\_\_\_\_\_  
Nancy A. Meany

11-29-11  
Date


**RESPONDENTS' REPRESENTATIVE:**

  AT 0001892  
\_\_\_\_\_  
Lynn M. Smith, Attorney  
Swisher & Cohrt, PLC  
528 West 4<sup>th</sup> Street  
Waterloo, IA 50704  
E-mail: lsmith@s-c-law.com

30 Nov 11  
Date




**COMPLAINANT:**

  
Shawn Heichel

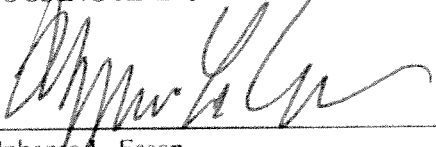
11/29/2011  
Date

**AGGRIEVED PERSON:**

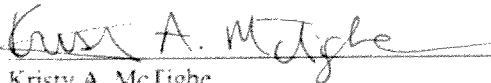
  
Shawn Heichel  
on behalf of Rachelle Heichel, minor

11/29/2011  
Date

**COUNSEL FOR THE CHARGING PARTY, UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT:**

  
Alphonso L. Eason  
Attorney-Advisor, Region VII  
Office of Regional Counsel  
U.S. Department of Housing and Urban Development  
Gateway Tower II  
400 State Avenue  
Kansas City, KS 66101  
E-mail: Alphonso.L.Eason@hud.gov

November 30, 2011  
Date

  
Kristy A. McTighe  
Supervisory Attorney-Advisor, Region VII  
E-mail: Kristy.A.McTighe@hud.gov

11/30/11  
Date

**IX. ORDER OF THE COURT**

The hearing in this matter was scheduled for January 10, 2012. On 11/30/11, 2011, the parties filed a motion for entry of this Consent Order, incorporating the terms of their agreement. The agreement appears to be in the public interest and all parties have signed it. Accordingly, the terms of the Consent Order are hereby entered.

So Ordered this 30<sup>th</sup> day of November, 2011.

A handwritten signature in cursive script, appearing to read "Alexander Fernández", is written over a horizontal line. To the right of the signature is a large, loopy circular flourish.

Alexander Fernández  
Administrative Law Judge

## **APPENDIX A**

### **REASONABLE ACCOMMODATION POLICY**

John J. and Nancy A. Meany, the owners of this property, are committed to granting reasonable accommodations to their rules, policies, practices or services when such accommodations may be necessary to afford people with disabilities<sup>1</sup> the equal opportunity to use and enjoy their dwellings or common areas. A reasonable accommodation is a change or exception to a rule or policy that is needed because of a person's disability. For example, a housing provider that has a policy of not assigning parking spaces must make an exception to this policy in order to grant an assigned parking space to an individual who is substantially limited in his ability to walk.

One common type of reasonable accommodation is allowing a person with a disability to keep an assistance animal. An assistance animal is an animal that works, provides assistance, 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. We recognize the importance of assistance animals, and we are dedicated to ensuring that individuals with assistance animals may keep them in our property.

We will not deny a request to keep an assistance animal solely because the animal has not received formal training. Some assistance animals, known as service animals, are trained by professionals, their owners, or someone else to work or perform tasks for individuals with disabilities. Other assistance animals, however, do not require any special training. The relevant question is whether the animal performs the assistance or provides the benefit needed by the person with the disability.

If an individual requests to keep an assistance animal, we will not ask about the nature or extent of the person's disability. Many times, it is readily apparent that an animal is trained to do work or perform tasks for an individual with a disability, such as a dog guiding an individual who is blind or has low vision, pulling a person's wheelchair, or providing assistance with stability to an individual with a mobility disability. If this is the case, then we will not make any inquiries at all and the reasonable accommodation will be granted.

If it is not readily apparent that an animal is trained to aid an individual with a disability, then we will need to make a few inquiries before granting the reasonable accommodation. We will first ask if the animal is required because of a disability and what work or task the animal

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<sup>1</sup> For this purpose, a person with a disability is defined as a person with a physical or mental impairment that substantially limits one or more major life activities, a person who is regarded as having such an impairment, or a person with a record of such an impairment. Physical or mental impairments include, but are not limited to, such diseases or conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, HIV, mental retardation, emotional illness, drug addiction (other than addiction caused by current, illegal use of a controlled substance) and alcoholism. The term "substantially limits" suggests that the limitation is significant or to a large degree. The term "major life activity" means those activities that are of central importance to daily life, including but not limited to seeing, hearing, walking, breathing, performing manual tasks, caring for one's self, learning, and speaking.

has been trained to perform. We will not, however, require documentation that an animal is trained or certified or licensed as a service animal.

If the animal is not trained to perform tasks for individuals with disabilities, then we will ask for a statement from a health or social service professional, such as a doctor, physician's assistant, psychologist or social worker, that the individual has a disability and the designated animal provides emotional support or other assistance that alleviates one or more symptoms or effects of the person's disability. We will not ask for information about a person's disability or information about the symptoms or effects of this disability that will be alleviated by the assistance animal. In no case will a person requesting to keep an assistance animal as a reasonable accommodation be charged any fee, deposit, rent increase, or other charges for making the request or for keeping the animal. Since individuals with disabilities are entitled to keep and use assistance animals in units and common areas at our properties, it is our policy to make the process of obtaining approval to keep an assistance animal as least burdensome as possible.

You may obtain a form to request a reasonable accommodation at \_\_\_\_\_. If you require assistance in completing the form, we will assist you in filling out the form or will fill out a form based on an oral request. We are using this form to record reasonable accommodation requests so that we obtain only the information that is necessary for a reasonable accommodation decision and do not obtain confidential information that we do not need to make a reasonable accommodation decision.

All requesters shall be notified in writing of a decision within 10 days of the request. Prior to denying a request, we will attempt to engage in an interactive process with the requester in which the parties discuss possible alternative accommodations that might effectively meet the individual's disability-related needs. We recognize that an individual with a disability is generally in the best position to know whether or not a particular accommodation will be effective in meeting his or her needs. If the request is denied, an explanation for the denial will be provided in the written notification. If an individual with a disability believes that the request is denied unlawfully or that the response is delayed unreasonably, then he or she may file a complaint with:

U.S. Department of Housing and Urban Development  
Office of Fair Housing and Equal Opportunity  
451 7<sup>th</sup> St. SW, Washington, DC 20410  
Telephone: 1-800-669-9777  
Website: <http://hud.gov/complaints/>

## APPENDIX B

### FORM TO REQUEST A 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 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 us. Check all items that apply and answer all questions. We will answer this request in writing within 10 days (or sooner if the situation requires an immediate response). If you require assistance in completing this form, contact us for assistance or to make an oral request for a reasonable accommodation.

Name \_\_\_\_\_

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

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

Me \_\_\_\_\_ A person associated or living with me \_\_\_\_\_

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

Phone # \_\_\_\_\_

Address \_\_\_\_\_

I am requesting the following change in a rule, policy, practice, or service so that a person with a disability can have an equal opportunity to use and enjoy the premises:

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This reasonable accommodation is needed because:

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If the request is to keep an assistance animal:

(1) Designate the species, e.g., "dog," "cat," "bird."

(2) If the request is to keep an animal that is trained to perform work or do tasks for an individual with a disability:

Is the animal required because of a disability? Yes \_\_\_\_ No \_\_\_\_

State at least one task or type of work that the animal has been trained to perform

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**-OR-**

If the request is to keep an animal that is not trained to perform work or do tasks for an individual with a disability, provide a statement from a health or social service professional indicating the existence of a disability and that the presence of the animal alleviates one or more identified symptoms or effects of the person's disability. A form which can be provided to a health or social service professional will be provided to you by us.

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Signature of Person Making Request

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Date

To be completed by John J. or Nancy A. Meany

From Accepted by: \_\_\_\_\_

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Date

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Signature

**APPENDIX C**

**FORM TO BE COMPLETED BY JOHN J. OR NANCY A. MEANY  
IF REQUESTER IS UNABLE TO COMPLETE WRITTEN FORM**

On \_\_\_\_\_ (date), \_\_\_\_\_ (name) orally requested the following reasonable accommodation:

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I, \_\_\_\_\_ John J. Meany or  
\_\_\_\_\_ Nancy A. Meany:

\_\_\_\_\_ Gave the requester the applicable form and offered to assist in filling it out.

\_\_\_\_\_ Granted the request.

\_\_\_\_\_ Explained that the request could not be evaluated until the following additional information is provided:

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\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Requester's Address \_\_\_\_\_

Requester's Telephone Number \_\_\_\_\_

## APPENDIX D

### FORM FOR HEALTH OR SOCIAL SERVICE PROFESSIONAL IF REQUESTING TO KEEP AN ASSISTANCE ANIMAL

On \_\_\_\_\_ (date), \_\_\_\_\_ (name) requested the reasonable accommodation of keeping the following animal in his home. Please complete this form to assist us in determining whether or not to grant the requested accommodation.

\_\_\_\_\_ has a disability<sup>1</sup>: Yes \_\_\_ No \_\_\_

The presence of the designated animal alleviates one or more identified symptoms or effects of the person's disability? Yes \_\_\_ No \_\_\_

\_\_\_\_\_  
Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

When completed, return this form to:

John J. and Nancy Meany, Owners  
Add Address

<sup>1</sup> For this purpose, a person with a disability is defined as a person with a physical or mental impairment that substantially limits one or more major life activities, a person who is regarded as having such an impairment, or a person with a record of such an impairment. Physical or mental impairments include, but are not limited to, such diseases or conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, HIV, mental retardation, emotional illness, drug addiction (other than addiction caused by current, illegal use of a controlled substance) and alcoholism. The term "substantially limits" suggests that the limitation is significant or to a large degree. The term "major life activity" means those activities that are of central importance to daily life, including but not limited to seeing, hearing, walking, breathing, performing manual tasks, caring for one's self, learning, and speaking.



APPENDIX E

APPROVAL OR DENIAL OF REASONABLE ACCOMMODATION REQUEST

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

Address \_\_\_\_\_

\_\_\_\_\_

Phone \_\_\_\_\_

On \_\_\_\_\_ [date], you requested the following reasonable accommodation [describe request]:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

We have (check all that apply):

☐ **Approved** your request. The following reasonable accommodation will be permitted:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

☐ The change is effective immediately.

☐ The reasonable accommodation is not effective immediately because [list reason(s) accommodation cannot be implemented immediately]

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

We anticipate that the change will be made by \_\_\_\_\_ [date], and we will notify you if we discover that there will be a delay.

☐ **Can neither approve nor deny your request** without the following additional information:

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☐ **Denied** you request. We have denied your request because [You must check at least one]:

☐ You do not have a disability.

☐ The requested accommodation is not related to your disability.

☐ Granting the request would impose an undue financial and administrative burden or would fundamentally alter the nature of our operations.

We used these facts to deny your request:

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If you disagree with this decision you may file a complaint with:

U.S. Department of Housing and Urban Development  
Office of Fair Housing and Equal Opportunity  
451 7<sup>th</sup> St. SW, Washington, DC 20410  
Telephone: 1-800-669-9777  
Website: <http://hud.gov/complaints/>

Sincerely,

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

Print Name: \_\_\_\_\_ Title: \_\_\_\_\_