

United States v. Biafora's Incorporated dba Metro Property Management et al. (N.D. W.Va.,
Civil No. 1:18-cv-00201)

SETTLEMENT AGREEMENT
between
THE UNITED STATES OF AMERICA
and
BIAFORA'S INCORPORATED DBA METRO PROPERTY MANAGEMENT, RDR
PROPERTIES, LLC AND RDR PROPERTIES II, LLC

I. INTRODUCTION

1. This Settlement Agreement (“Agreement”) is made and entered into by the United States of America, through the United States Department of Justice (“United States”), and Defendants Biafora’s Incorporated dba Metro Property Management, RDR Properties, LLC and RDR Properties II, LLC (collectively referred to as “Defendants”), through their authorized representatives. The United States and Defendants are referred to herein as the “Parties.”

2. This Agreement resolves the claims and causes of action asserted in the United States’ lawsuit, *United States v. Biafora's Incorporated dba Metro Property Management, et al.*, Civil No. 1:18-cv-00201, filed in the United States District Court for the Northern District of West Virginia on October 26, 2018, to enforce Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (“the Fair Housing Act”) 42 U.S.C. §§ 3601-3631 (hereinafter the “Civil Action”).

3. The Civil Action was brought on behalf of Chelsea Hill, Gabrielle Sheppard, and Fair Housing Partnership of Greater Pittsburgh (“FHP”), under 42 U.S.C. § 3612(o). The Civil Action alleges, *inter alia*, that Defendants: (1) denied Ms. Hill and Ms. Sheppard the reasonable accommodation of keeping assistance animals in their homes; (2) published and enforced an emotional support animal policy that discriminated on the basis of disability; and (3) interfered with and intimidated individuals on account of their exercising their rights under the FHA.

4. Defendants deny that they have engaged in any unlawful conduct.

II. RECITALS

5. Defendant Biafora's Incorporated, d/b/a Metro Property Management ("Biafora's/MPM") is a corporation organized under the laws of West Virginia, with its principal place of business located at 6200 Mid-Atlantic Drive, Morgantown, West Virginia 26508.

Biafora's/MPM is engaged in the business of managing, operating, and acquiring real estate.

Biafora's/MPM manages multifamily residential properties under its trade name, Metro Property Management.

6. Defendant RDR Properties, LLC ("RDR"), is a limited liability company organized under the laws of West Virginia, with its principal place of business at 6200 Mid-Atlantic Drive, Morgantown, West Virginia 26508. RDR owns Glenlock South, a 40-unit residential apartment complex located on University Avenue in Morgantown, West Virginia 26505. Glenlock South is managed by Biafora's/MPM.

7. Defendant RDR Properties II, LLC ("RDR II") is a limited liability company organized under the laws of West Virginia, with its principal place of business at 6200 Mid-Atlantic Drive, Morgantown, West Virginia 26508. RDR II owns Valley View Woods, a 73-unit residential apartment complex located on Valley View Avenue in Morgantown, West Virginia 26505. Valley View Woods is managed by Biafora's/MPM.

8. In October 2014, after receiving two complaints regarding the Defendants' properties, Northern West Virginia Center for Independent Living ("NWVCIL") decided to conduct testing to determine whether Biafora's/MPM was discriminating on the basis of disability by denying requests for reasonable accommodation. NWVCIL contacted FHP and

requested that FHP provide technical assistance with testing at Biafora's/MPM's leasing offices. The testing conducted indicated that the Defendants were distributing documents that could deter residents or prospective residents from seeking an accommodation to live with an assistance animal.

9. On or about March 30, 2015, NWVCIL and FHP filed a housing discrimination complaint with HUD alleging that Biafora's/MPM's policies discriminated on the basis of disability in violation of the Fair Housing Act. On or about August 30, 2017, NWVCIL and FHP amended their complaint to add RDR and RDR II as respondents.

10. Chelsea Hill lived at Glenlock South from May 2015 to May 2016. At all relevant times, Ms. Hill is and was a person with a disability as defined by the Fair Housing Act, 42 U.S.C. § 3602(h). On or about May 26, 2015, Ms. Hill submitted a reasonable accommodation request to Biafora's/MPM asking that she be allowed to keep an assistance dog in her apartment. On or about June 25, 2015, Biafora's/MPM denied Ms. Hill's request for a reasonable accommodation. Biafora's/MPM required Ms. Hill to remove her assistance animal and demanded that she pay an additional security deposit because she had an "unauthorized animal" in the apartment. After Ms. Hill's parents complained to a property manager, on August 4, 2015, Biafora's/MPM reversed its decision and allowed Ms. Hill to have her assistance animal live with her in her apartment.

11. On or about August 4, 2015, Ms. Hill filed a housing discrimination complaint with the U.S. Department of Housing and Urban Development ("HUD"), alleging that Biafora's/MPM and RDR had discriminated against her on the basis of disability by, *inter alia*,

refusing to grant her request for a reasonable accommodation to allow her assistance animal to live with her in her apartment.

12. Gabrielle Sheppard lived at Valley View Woods from August 2015 to August 2016. At all relevant times, Ms. Sheppard is and was a person with a disability as defined by the Fair Housing Act, 42 U.S.C. § 3602(h). On or about October 12, 2015, Ms. Sheppard submitted a reasonable accommodation request to Biafora's/MPM asking that she be allowed to keep an assistance dog in her apartment. On or about November 11, 2016, Biafora's/MPM denied Ms. Sheppard's request for a reasonable accommodation. Biafora's/MPM required Ms. Sheppard to remove her assistance animal and demanded that she pay an additional security deposit because she had an "unauthorized animal" in the apartment.

13. On or about January 6, 2016, Ms. Sheppard filed a housing discrimination complaint with HUD, alleging that Biafora's/MPM and RDR II had discriminated against her on the basis of disability by, *inter alia*, refusing to grant her request for a reasonable accommodation to allow her assistance animal to live with her in her apartment.

14. Defendants denied the allegations contained in the housing discrimination complaints filed by NWVCIL, FHP, Ms. Hill and Ms. Sheppard, denied engaging in any discriminatory conduct and asserted factual and legal defenses.

15. Pursuant to 42 U.S.C. § 3610, the Secretary of HUD conducted and completed an investigation of the complaints, attempted conciliation without success, and prepared a final investigative report.

16. On or about September 29, 2017, the Secretary of HUD issued a Determination of

Reasonable Cause and Charge of Discrimination pursuant to 42 U.S.C. § 3610(g)(2)(A), charging Defendants with engaging in discriminatory housing practices in violation of the Fair Housing Act.

17. On or about October 13, 2017, Defendants elected to have the Charge of Discrimination resolved in a civil action filed in federal district court pursuant to 42 U.S.C. § 3612(a). Following the Notice of Election, the Secretary authorized the Attorney General to commence this Civil Action pursuant to 42 U.S.C. § 3612(o).

18. The United States alleges that Defendants engaged in discriminatory conduct by: (1) refusing to provide reasonable accommodations to former tenants Chelsea Hill and Gabrielle Sheppard, in violation of 42 U.S.C. § 3604(f)(2) and 42 U.S.C. § 3604(f)(3)(B); (2) maintaining and publishing an emotional support animal policy that indicated a preference, limitation, or discrimination based on disability in violation of 42 U.S.C. § 3604(c); and (3) threatening or intimidating individuals on account of their having requested a reasonable accommodation, or having aided or encouraged any person with a request for a reasonable accommodation, in violation of 42 U.S.C. § 3617.

19. The United States alleges that, as a result of Defendants' conduct, Ms. Hill, Ms. Sheppard, and FHP have suffered injury and constitute "aggrieved persons" as that term is defined by 42 U.S.C. § 3602(i).

20. Defendants do not admit any culpability, liability or discriminatory conduct and expressly deny the same.

21. The Parties agree that the Civil Action should be resolved without further proceedings or trial.

III. STATEMENT OF CONSIDERATION

22. In consideration of, and consistent with, the terms and conditions of this Agreement described below, the Parties agree to move jointly for dismissal of the United States' action after Defendants' obligations under Section IV.A. and under Section IV.C, paragraphs 31 through 34 have been satisfied, subject to its reinstatement as set forth in paragraph 46, infra. The Parties agree and acknowledge that this consideration is adequate and sufficient. This Agreement constitutes full resolution of the claims in the United States' lawsuit against Defendants in this case.

23. In consideration of the mutual promises and obligations set forth below, the Parties agree and covenant to the following material terms and conditions.

IV. TERMS AND CONDITIONS

A. MONETARY RELIEF

24. No later than thirty (30) days after the effective date of this Agreement, Defendants shall pay a total sum of \$6,000 in settlement of the case to Chelsea Hill by delivering one check payable to Ms. Hill to counsel for the United States pursuant to written instructions to be provided by counsel for the United States

25. As a prerequisite to receiving such payment, Ms. Hill shall execute and deliver to counsel for the United States a release of all claims, legal or equitable, including attorneys' fees and court costs, that she may have against the Defendants and their officers, agents, and employees relating to the facts and allegations underlying the claims asserted in this lawsuit.

Such release shall take the form of Attachment C. Counsel for the United States shall deliver the original release form to counsel for Defendants upon receipt of the check described in paragraph 24.

26. No later than thirty (30) days after the effective date of this Agreement, Defendants shall pay a total sum of \$6,000 in settlement of the case to Gabrielle Sheppard by delivering one check payable to Ms. Sheppard to counsel for the United States pursuant to written instructions to be provided by counsel for the United States.

27. As a prerequisite to receiving such payment, Ms. Sheppard shall execute and deliver to counsel for the United States a release of all claims, legal or equitable, including attorneys' fees and court costs, that she may have against the Defendants and their officers, agents, and employees relating to the facts and allegations underlying the claims asserted in this lawsuit. Such release shall take the form of Attachment C. Counsel for the United States shall deliver the original release form to counsel for Defendants upon receipt of the check described in paragraph 26.

B. PROHIBITED CONDUCT

28. Defendants, their officers, employees, agents, successors and assigns, and all other persons or entities in active concert or participation with the Defendants, shall comply with the Fair Housing Act, including the provisions outlawing discrimination on the basis of disability at 42 U.S.C. § 3604(f).

29. Defendants their officers, employees, agents, successors and assigns, and all other persons or entities in active concert or participation with the Defendants, shall not retaliate

against, coerce, intimidate, threaten, or interfere with in any way, any person who exercises his or her rights under the Fair Housing Act or this Agreement or any person who has aided or encouraged any other person in the exercise or enjoyment of his or her rights under the Fair Housing Act or this Agreement.

C. REASONABLE ACCOMMODATION POLICIES

30. For purposes of this Agreement, an “assistance animal” 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. This definition of assistance animal includes, but is not limited to, a “service animal” as defined by the Americans with Disabilities Act, *see* 28 C.F.R. § 35.104.

31. Within ten (10) calendar days of the effective date of this Agreement, Defendants shall implement a reasonable accommodation policy for assistance animals (“Policy on Reasonable Accommodations and Assistance Animals” or “Policy”). Defendants shall adopt and implement the policy appended as Attachment A to this Agreement.

32. Within fifteen (15) days of the adoption of the Policy, the Defendants shall:

- (A) prominently post and display the policy at all management and leasing office serving any residential rental property owned or managed by Defendants;
- (B) prominently post and display the policy in a visible location in the most frequently used common space at any residential rental property owned or managed by Defendants that has a common room, hallway, vestibule, mailroom, clubhouse, or other common area protected from the elements (not including a garage); and

- (C) provide a copy to all current residents at any residential rental property that does not have a common area as described in subpart (B).

Beginning ten (10) calendar days after the effective date of the agreement, Defendants shall attach a copy of the Policy to any lease provided to a current or prospective tenant. Defendants shall also add the Policy to any staff or resident handbooks.

33. Within fifteen (15) days of the adoption of the Policy, Defendants shall post the policy, or a link to it, on any webpage maintained by Defendants that relates to the rental properties owned or managed by Defendants.

34. No later than ten (10) days after the adoption of the Policy, Defendants shall apprise each of their employees or agents who interact with prospective tenants or tenants in the course of Defendants' leasing operations or are involved in the review, consideration, disposition, or appeal of reasonable accommodation requests of such persons' obligations under the Policy. Each employee or agent covered by this paragraph shall sign a statement in the form of Attachment B acknowledging that he or she has received, read, and understood the Policy.

35. During the effective period of this Agreement, every new employee or agent who begins to interact with prospective tenants or tenants in the course of Defendants' leasing operations or becomes involved in the review, consideration, disposition, or appeal of reasonable accommodation requests shall: (a) be apprised of the provisions of the Policy when their term, employment, or agency commences; (b) be provided copies of the Policy; and (c) execute the statement contained in Attachment B, no later than fifteen (15) days following their first day of employment or service or involvement in these processes.

D. TRAINING PROGRAM

36. Within one-hundred eighty (180) days of the effective date of this Agreement, any agents or employees of Defendants who may be involved in the review, consideration, disposition, or appeal of reasonable accommodation requests, or in the creation, implementation, or revision of housing-related reasonable accommodation policies, shall attend, at Defendants' expense, an in-person education and training program regarding the Fair Housing Act, including its prohibitions on discrimination based on disability. The education and training program shall be conducted by a qualified third party or HUD, approved in advance by the United States, and unconnected to Defendants or their employees, agents, or counsel. The training may be video-recorded to be used for new employee training as required by paragraph 38.

37. Defendants shall obtain from the trainer or training entity certificates of attendance signed by each individual who attended the training. The certificates shall include the name of the course, the date the course was taken, the subject matters covered in the course, and the length of the course or time within which the course was completed.

38. During the effective period of this Agreement, within thirty (30) days of commencing an agency or employment relationship, all new agents or employees of the Defendants involved in the review, consideration, disposition, or appeal of reasonable accommodation requests or in the creation, implementation, or revision of housing-related reasonable accommodation policies, shall be provided training and complete a certificate of attendance as described in paragraph 37. Training may be accomplished by viewing the video recording of the previously-approved training referenced in paragraph 36 or through in-person training by a qualified third party or HUD, approved in advance by the United States.

E. REPORTING AND RECORDKEEPING

39. Within ninety (90) days of the effective date of this Agreement, Defendants shall submit a report to the United States evidencing their compliance with this Agreement. The compliance report shall include the following:

- A. A written statement verifying that Defendants have adopted the Policy on Reasonable Accommodations and Assistance Animals (Attachment A) and have provided a copy of the Policy to current tenants as provided in paragraph 32(c);
- B. Photographs showing that the Policy on Reasonable Accommodations and Assistance Animals has been posted in the offices and buildings identified in paragraph 32;
- C. Verification that the Policy has been posted on Defendants' websites, as required in paragraph 33;
- D. The executed copies of Attachment B required by paragraphs 34 and 35;
- E. The education and training certificates required by paragraphs 37 and 38;
- F. Any change, other than the adoption of the Policy on Reasonable Accommodations and Assistance Animals, to Defendants' rules, procedures, or practices related to reasonable accommodations for individuals living in properties owned or managed by Defendants;
- G. Documentation of any denial by Defendants or their employees or agents, since the effective date of this Agreement, of a tenant's or applicant's request for a reasonable accommodation relating to an assistance animal, including the

person's name, current address, telephone number, email address, the details of the request, and, if denied, the reason(s) for the denial;

H. Documentation of any decision by Defendants or their employees or agents, since the effective date of this Agreement, to change the terms of any accommodation or to rescind a reasonable accommodation relating to an assistance animal that had previously been granted to an applicant for, or resident of housing, including the person's name, current address, telephone number, email address, the details of the circumstances leading to the change or rescission, and the reason(s) for the change or rescission; and

I. Any written or oral complaint against the Defendants, their agents, or their employees regarding a request for a reasonable accommodation relating to an assistance animal that was made since the effective date of this Agreement, including a copy of any written complaint or a summary of any oral complaint, and the name, current address, telephone number, and email address of the complainant. Defendants shall also promptly provide the United States with information concerning any steps taken by the Defendants to resolve the complaint.

40. Each year on the anniversary date of this Agreement, except as provided below, Defendants shall submit to the United States a written report that includes the following information:

A. The information contained in paragraph 39, if not previously reported; and

- B. For every request for a reasonable accommodation relating to an assistance animal made at a property owned or managed by Defendants during the preceding year:
- i. The name, current address, telephone number, and email address of the person who made the request;
 - ii. The date of the request;
 - iii. The type or kind of accommodation requested and the type of disability the accommodation is requested to alleviate; and
 - iv. The disposition of the request and, if the request was denied, the reason(s) for the denial.

41. The final report required under paragraph 40 shall be submitted sixty (60) days prior to the expiration date of this Agreement.

42. All documents or other communications required by this Agreement to be sent to the United States shall be sent to: Chief, Housing and Civil Enforcement Section, Civil Rights Division, U.S. Department of Justice, Attn: *U.S. v. Biafora's Incorporated, et al.*, DJ # 175-83-21, via overnight delivery, at the following address: 1800 G Street NW, Suite 7002, Washington, DC 20006. Notice via facsimile is to be sent to (202) 514-1116. Notice via email is to be sent to undersigned counsel of record for the United States, unless otherwise directed. Any submission must reference the case name "*U.S. v. Biafora's Incorporated, et al.*" and DJ # 175-83-21.

43. For the duration of this Agreement, the Defendants shall retain all records,

including electronic records such as email messages, relating to any provisions of this Agreement. Counsel for the United States shall have the opportunity to inspect and copy such records after giving reasonable notice to counsel for Defendants.

V. IMPLEMENTATION, ENFORCEMENT, AND DISMISSAL OF UNDERLYING ACTION

44. The United States may review compliance with this Agreement at any time. Defendants agree to cooperate with the United States in any review of compliance with this Agreement.

45. The Parties shall endeavor in good faith to resolve informally any differences regarding interpretation of or compliance with this Agreement prior to initiating court action. If the United States believes that Defendants have failed to perform in a timely manner any act required by this Agreement, or have otherwise not acted in conformance with any provision thereof, whether intentionally or not, the United States will notify Defendants in writing of its concerns. Defendants will have fifteen (15) days from the date of notification to cure the breach.

46. If the parties are unable to reach a resolution within fifteen (15) days, the United States may seek appropriate relief from the Court prior to the dismissal of its complaint; or, if the action has been dismissed, move the Court to restore the action to the Court's active docket for purposes of any claim of breach. Defendants agree not to contest the United States' motion to restore the present action to the Court's active docket. Alternatively, the United States may file a separate action for breach of this Agreement, or any provision thereof, in the United States District Court for the Northern District of West Virginia. In any action restored or filed under this paragraph, Defendants agree not to contest the exercise of personal jurisdiction over

Defendants by this Court and not to raise any challenge on the basis of venue. In addition, the Defendants agree not to count the time during which this Agreement is in place, or use the terms or existence of this Agreement, to plead, argue or otherwise raise any defenses under theories of claim preclusion, issue preclusion, statute of limitations, estoppel, laches, or similar defenses.

47. In any action or proceeding brought by the United States to enforce this Agreement, the United States may seek, and the Court may grant as relief, the following: (a) an order mandating specific performance of any term or provision in this Agreement, without regard to whether monetary relief would be adequate; (b) an award of reasonable attorneys' fees and costs incurred in bringing an action or proceeding to remedy breach of this Agreement at the discretion of the court; and (c) any additional relief that may be authorized by law or equity. In any such action or proceeding, the Defendants agree not to count the time during which this Agreement is in place, or use the terms or existence of this Agreement, to plead, argue or otherwise raise any defenses under theories of claim preclusion, issue preclusion, statute of limitations, estoppel, laches, or similar defenses.

48. Failure by the United States to enforce any provision of this Agreement shall not operate as a waiver of the United States' right or ability to enforce any other provision of this Agreement.

VI. TERMINATION OF LITIGATION HOLD

49. The Parties agree that, as of the date of the dismissal of the underlying civil action, litigation is not "reasonably foreseeable" concerning the matters described above or in the United States' complaint. To the extent that any of the parties previously implemented a litigation hold to preserve documents, electronically stored information (ESI), or things related to the matters

described above, that Party is no longer required to maintain such litigation hold. Nothing in this paragraph relieves any Party of any other obligations imposed by this Agreement.

VII. DURATION, EXECUTION, AND OTHER TERMS

50. This Agreement is effective on the date of signature of the last signatory to the Agreement.

51. The Agreement may be executed in multiple counterparts, each of which together shall be considered an original but all of which shall constitute one Agreement. Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Agreement. The duration of this Agreement shall be for a period of two (2) years from the effective date.

52. Each Party shall bear its own legal and other costs incurred in connection with this matter, including the preparation, negotiation, and performance of this Agreement.

53. This Agreement constitutes the complete agreement among the Parties. No prior or contemporaneous communications, oral or written, or prior drafts shall be relevant or admissible for purposes of determining the meaning of any provision herein or in any other proceeding.

54. Each Party and signatory to this Agreement represents that it freely and voluntarily enters into this Agreement without any degree of duress or compulsion. The Parties agree that each Party and its representatives have acted in a manner consistent with the duty of good faith and fair dealing.

55. The undersigned represent and warrant that they are fully authorized to execute this Agreement on behalf of the persons and entities indicated below.

56. This Agreement is binding on the Parties and their transferees, heirs, and assigns.

57. This Agreement is governed by and shall be interpreted under the laws of the United States. For purposes of construing or interpreting this Agreement, it shall be deemed to have been drafted by all Parties and shall not be construed or interpreted against any Party for that reason in any subsequent dispute.

58. Except where this Agreement expressly conditions or predicates performance of a duty or obligation upon the performance of a duty or obligation by another party, the performance of one party's duties or obligations under this Agreement shall not be discharged or excused by the actual or alleged breach of the duties and obligations by another party.

59. This Agreement is a public document. The Parties agree and consent to the United States' disclosure of this Agreement, and information about this Agreement, to the public.

60. Should any provision of this Agreement be declared or determined by any court to be illegal or invalid, the validity of the remaining parts, terms or provisions shall not be affected thereby, and the illegal or invalid part, term or provision shall be deemed not to be a part of this Agreement. The Parties agree that they will not, individually or in combination with another, seek to have any court declare or determine that any provision of this Agreement is illegal or invalid.

61. The Parties agree that they will defend this Agreement against any challenge by any third party. In the event that this Agreement or any of its terms are challenged by a third party in a court other than the United States District Court for the Northern District of West Virginia, the parties agree that they will seek removal and/or transfer to the Northern District of West Virginia.

62. This Agreement may be modified only with the written consent of the parties. Any modification must be in writing and signed by the parties through their authorized representatives.

FOR THE UNITED STATES OF AMERICA:

Dated: October 26, 2018

JOHN M. GORE
Acting Assistant Attorney General
Civil Rights Division

SAMEENA SHINA MAJEED
Chief, Housing and Civil Enforcement Section

CATHERINE A. BENDOR
Deputy Chief

/s/ Audrey M. Yap
AUDREY M. YAP
Trial Attorney
Housing and Civil Enforcement Section
Civil Rights Division
950 Pennsylvania Ave. NW – NWB
Washington, DC 20530
Telephone: (202) 305-0015
Facsimile: (202) 514-1116
Email: audrey.yap@usdoj.gov

**FOR THE DEFENDANTS, BIAFORA'S INCORPORATED dba METRO PROPERTY
MANAGEMENT, RDR PROPERTIES, LLC and RDR PROPERTIES II, LLC**

Dated: October 26, 2018

/s/ Mark A. Kepple
MARK A. KEPPLER, ESQ.
Bailey & Wyant, P.L.L.C.
1219 Chapline Street
Wheeling, WV 26003
Telephone: (304) 233-3100
Facsimile: (304) 233-0201
Email: mkepple@baileywyant.com

ATTACHMENT A

POLICY ON REASONABLE ACCOMMODATIONS AND ASSISTANCE ANIMALS

Metro Property Management is committed to granting reasonable accommodations to its rules, policies, practices, or services when such accommodations may be necessary to afford people with disabilities an equal opportunity to use and enjoy their dwellings, to the extent required by federal, state, and local law. A reasonable accommodation may include a change or exception to a rule or policy that is needed because of a person's disability, or it may be a physical change to a unit or common area. It is Metro Property Management's general policy to provide a reasonable accommodation to an individual with a disability whenever the individual has a disability-related need for the requested accommodation.

Metro Property Management accepts reasonable accommodation requests from persons with disabilities and those acting on their behalf. Reasonable Accommodation Request forms are available at all leasing offices or by email, and may be returned in person or by email to any leasing office when complete. If you require assistance in completing the form, please contact the [*insert name of reasonable accommodation coordinator and contact information*]. If you wish to make the request orally, please contact the [*insert name of reasonable accommodation coordinator and contact information*]. Metro Property Management will keep a record of all requests for a reasonable accommodation.

We will make a prompt decision on your request. If the request is of a time-sensitive nature, please let us know and we will expedite the decision-making process. In the event we need additional information to make a determination, we will promptly advise you of the information needed. It is Metro Property Management's policy to seek only the information necessary to verify whether you are a person with a disability and/or to evaluate if the reasonable accommodation is necessary to provide you an equal opportunity to use and enjoy our housing. If we grant the request, you will receive a letter so letting you know.

Metro Property Management may deny the requested accommodation if providing it would impose an undue financial and administrative burden on Metro Property Management or fundamentally alter the nature of Metro Property Management's operations. If we deny the request, we will provide you with a letter stating all of the reasons for our denial. If we believe that the requested accommodation poses an undue financial and administrative burden or a fundamental alteration to the nature of the Metro Property Management's operations, we will schedule a meeting at a mutually convenient time to discuss possible alternative accommodations that may meet your needs and would not impose such a burden or result in a fundamental alteration.

Metro Property Management will not require you to accept an alternative accommodation if you do not agree it meets your 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 agreement on an alternative accommodation is not reached, we will send you a letter providing Metro Property Management's decision on your requested accommodation and a detailed explanation of our reasons for a denial or decision to grant an alternative accommodation.

Individual leasing agents do not have discretion to approve or deny a request for a reasonable accommodation. The leasing agent will simply provide a reasonable accommodation request form. If the tenant needs assistance in completing the form, the leasing agent shall direct the tenant to contact [*insert name of reasonable accommodation coordinator and contact information*]. The decision regarding the reasonable accommodation request will be made by the corporate office.

If an individual with a disability believes that the request has been denied unlawfully or a response has been unreasonably delayed, he or she may file a complaint with the following:

U.S. Department of Housing and Urban Development Office of Fair Housing and Equal Opportunity 100 Penn Square East, 12th Floor Philadelphia, PA 19107 (215) 861-7637 Fax: (215) 656-3419 https://www.hud.gov/	West Virginia Human Rights Commission 1321 Plaza East, Suite 108A Charleston, WV 25301 Phone: (304) 558-2616 Toll-free: (888) 676-5546 Fax: (304) 558-0085 https://hrc.wv.gov
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Assistance Animals

One type of reasonable accommodation is allowing a person with a disability to keep an *assistance animal* in their unit. An assistance animal 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. Metro Property Management recognizes the importance of allowing assistance animals that are necessary to provide individuals with disabilities an equal opportunity to use and enjoy housing.

An assistance animal does not necessarily need to be trained and is not limited to any specific type of animal.

Requesting Permission to Keep an Assistance Animal

Metro Property Management will consider a request by an individual with a disability for

a reasonable accommodation to allow an assistance animal to live in their unit, at all residential properties managed by Metro Property Management or its successors.

A resident who wishes to request permission to keep an assistance animal should follow the general procedures for requesting an accommodation, which can be found on Metro Property Management's webpage [*insert additional webpages, as appropriate*] or made available in hard copy upon request. Metro Property Management may require a statement from a reliable third party indicating that the resident has a disability and that the animal would provide emotional support or other assistance that would ameliorate one or more symptoms or effects of the disability. A "reliable third party" is someone who is familiar with the individual's disability and the necessity for the requested accommodation. A reliable third party includes, but is not limited to, someone who provides medical care, therapy, or counseling to persons with disabilities, including, but not limited to, doctors, physician assistants, psychiatrists, psychologists, social workers or other medical or mental health professionals.

APPLICATION FOR REASONABLE ACCOMMODATION *[insert logo]*

PLEASE COMPLETE THIS FORM TO REQUEST AN ACCOMMODATION. IF YOU REQUIRE ASSISTANCE COMPLETING THIS FORM, OR WISH TO MAKE THE REQUEST ORALLY, PLEASE CONTACT A LEASING MANAGER AT THE NEAREST LEASING OFFICE. METRO PROPERTY MANAGEMENT WILL KEEP A RECORD OF ALL REQUESTS FOR REASONABLE ACCOMMODATIONS.

NAME OF RESIDENT: _____

ADDRESS: _____

TELEPHONE NUMBER: _____

PERSON REQUESTING ACCOMMODATION: _____

RELATIONSHIP TO RESIDENT (IF NOT RESIDENT): _____

1. Please describe the reasonable accommodation you are requesting.

2. Please explain why this reasonable accommodation is needed. You need not provide detailed information about the nature or severity of the disability.

3. If you are requesting permission to keep an assistance animal in your apartment and it is not readily apparent that the animal is a service animal as defined by the ADA, please answer the following:
 - (a) Type of animal (for example, dog or cat):

 - (b) Are you requesting to be able to keep the animal because of a disability?
Yes_____ No_____

 - (c) Does the animal for which you are making a reasonable accommodation request

perform work or do tasks for you related to your disability?
Yes _____ No _____

(d) If the answer to 3(c) is YES:

- i. Provide a statement from a health or social service professional indicating that you have a disability (*i.e.*, you have a physical or mental impairment that substantially limits one or more major life activities); and
- ii. Explain below how the animal has been trained to do work or perform tasks related to your disability or, if the animal lacks individual training, how the animal is able to do work or perform tasks that are related to your disability:

You may provide any additional information or documentation of the training or work you describe above and attach it to this application.

(e) If the answer to 3(c) is NO:

If the animal for which you are making a reasonable accommodation request does not perform work or do tasks for you related to your disability, but provides emotional support or ameliorates one or more symptoms or effects of your disability, please submit a statement from a health or social service professional stating:

- i. You have a disability (*i.e.*, you have a physical or mental impairment that substantially limits one or more major life activities); and
- ii. The animal would provide emotional support or other assistance that would ameliorate one or more symptoms or effects of your disability and how the animal ameliorates the symptoms or effect.

Please attach such a statement to this application. You may use, but are not required to use, Form A.

(f) Metro Property Management may deny a request to keep an assistance animal on the premises if the animal poses a direct threat (*i.e.*, a significant risk of

substantial harm) to the health or safety of other individuals that cannot be eliminated or reduced to an acceptable level by another reasonable accommodation, or if the animal would cause substantial physical damage to the property of others that cannot be reduced or eliminated by another reasonable accommodation. Metro Property Management will base such a determination only upon reliable, objective evidence of the specific animal's actual behavior or conduct and not on speculation or fear about the types of harm or damage an animal may cause.

4. If you are requesting a physical change to the interior of your unit, please describe the modifications. Please also submit Form [*insert form name*].

5. If you are requesting a physical change to the exterior of your unit or to a public or common use area, please describe the modification. Please also submit Form [*insert form name*].

6. If you are requesting a different accommodation, please describe it here.

Please check the box if you would like to have a placard placed on the outside of your apartment door indicating that an animal lives in the apartment. A sample placard is attached for your reference. The placard is designed to alert Metro staff entering your apartment to perform maintenance to the presence of an animal. Having a placard is optional and you are free to choose not to have one. Whether or not you decide to have a placard posted will not affect whether or not your request for a reasonable accommodation is granted.

Signature



**METRO PROPERTY MANAGEMENT GUIDELINES REGARDING ASSISTANCE
ANIMALS**

- A. Metro Property Management will grant reasonable accommodation requests to persons with disabilities consistent with the enclosed policy and all relevant statutes. A person with a disability is one who: (a) has a physical or mental impairment that substantially limits one or more of such person's major life activities; or (b) has a record of having such an impairment; or (c) is regarded as having such an impairment. The term does not include current, illegal use of or addiction to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).
- B. Metro Property Management will review and respond promptly to all reasonable accommodation requests.
- C. All information received by Metro Property Management regarding an individual's disability, including physical, mental, psychological, and/or psychiatric conditions, and disability-related need for a requested accommodation, shall be kept confidential unless the individual authorizes the release of the information or Metro Property Management is required to produce the information in response to a subpoena or court order. Within Metro Property Management, access to information regarding an individual's disability and disability-related need for a requested accommodation shall be restricted to staff on a need-to-know basis.
- D. If a resident of Metro Property Management housing has a disability and a disability-related need for a reasonable accommodation under federal, state, or local law, Metro Property Management will grant such accommodation, including a request to keep a service or assistance animal unless the accommodation would impose an undue financial or administrative burden on Biafara's/Metro Property Management. Metro Property Management will not retaliate against any person because that individual has requested or received a reasonable accommodation or assisted someone else in requesting or receiving one. Metro Property Management will not discourage any individual from making a reasonable accommodation request, including a request to keep a service or assistance animal. While it is Metro Property Management's policy to not allow pets at some properties, service or assistance animals are not pets.

Rules applicable to pets do not apply to service or assistance animals. When assistance animals are in common areas, however, the assistance animal must be kept on a leash or in a carrier or cage, unless those devices prevent the animal from performing a disability-related task. Additionally, like any other resident, owners of service or assistance animals remain subject to the provisions of their housing agreement. Similarly, owners of service or assistance animals shall comply with all applicable state and local animal laws. Metro Property Management may take action against the owner for damage caused by a service or assistance animal to the same extent that it takes such action against residents who themselves have caused similar damages.

FORM A – Assistance Animal Requests

IF YOU ARE SEEKING PERMISSION TO KEEP AN ASSISTANCE ANIMAL THAT HAS NOT BEEN TRAINED TO DO WORK OR PERFORM TASKS, PLEASE HAVE A HEALTH OR SOCIAL SERVICE PROFESSIONAL COMPLETE THIS FORM OR PROVIDE SIMILAR DOCUMENTATION.

TO BE COMPLETED BY OR ON BEHALF OF THE RESIDENT OR PROSPECTIVE RESIDENT:

RESIDENT NAME: _____

ADDRESS: _____ TELEPHONE NO.: _____

I, _____ (name of person filling out form), intend to request that Metro Property Management permit _____ (name of resident) to have an assistance animal as a reasonable accommodation for a disability. In connection with that application, I am requesting that you complete this form regarding the disability.

Resident Signature: _____ Date: _____

If person filling out form is not resident, state relationship to resident: _____

TO BE COMPLETED BY A HEALTH OR SOCIAL SERVICE PROFESSIONAL:

NAME: _____ TELEPHONE NUMBER: _____

ADDRESS: _____

1. Does the individual identified above have a disability? A disability is a physical or mental impairment that substantially limits one or more major life activities.
Yes _____ No _____
2. Does or would the assistance animal provide some type of disability-related assistance to the individual? One example of assistance is alleviating one or more of the symptoms or effects of a disability.
Yes _____ No _____

SIGNATURE: _____

TITLE: _____

DATE: _____

ATTACHMENT B

**CERTIFICATION OF RECEIPT OF POLICY ON REASONABLE
ACCOMMODATIONS AND ASSISTANCE ANIMALS**

I certify that I have received a copy of the Policy on Reasonable Accommodations and Assistance Animals (“Policy”). I further certify that I have read and that I understand the Policy and that any questions I had concerning the Policy were answered.

I understand that federal law and Metro Property Management policy prohibit discrimination against individuals on the basis of disability, including discrimination based on the type of disability an individual may have. I understand that federal law and Metro Property Management policy also prohibit refusing to make reasonable accommodations in rules, policies, practices, or services when the accommodations may be necessary to afford a person with a disability the equal opportunity to use and enjoy housing.

(Signature)

(Printed Name)

(Title)

(Date)

ATTACHMENT C

RELEASE OF ALL CLAIMS

In consideration of and contingent upon the payment of the sum of \$6,000, pursuant to the Settlement Agreement executed by the United States and Defendants Biafora's Incorporated dba Metro Property Management, RDR Properties, LLC and RDR Properties II, LLC ("Defendants"), I hereby release and forever discharge the Defendants named in this action, and its officers, agents, and representatives, from any and all liability for any claims, legal or equitable, including attorneys' fees and court costs, I may have against them arising out of the facts underlying the claims asserted in this action as of the date of the entry of that Settlement Agreement. I fully acknowledge and agree that this release of the Defendants shall be binding on my heirs, representatives, executors, successors, administrators, and assigns. I hereby acknowledge that I have read and I understand this release and have executed it voluntarily and with full knowledge of its legal consequences.

(Signature of Complainant)

NAME: _____

ADDRESS: _____

DATE: _____