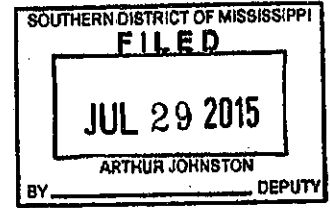


IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION



UNITED STATES OF AMERICA,)

Plaintiff,)

v.)

CITY OF PETAL, MISSISSIPPI,)

Defendant.)

Civil Action No. 2:15-cv-102-KS-MTP

CONSENT DECREE

DANNY O. COWART; BRANDI'S HOPE
COMMUNITY SERVICES, LLC; AND
SCIOTO PROPERTIES SP-15 LLC,)

Plaintiff,)

v.)

CITY OF PETAL, MISSISSIPPI,
A MUNICIPAL CORPORATION)

Defendant.)

Civil Action No. 2:14-cv-188-KS-MTP

I. BACKGROUND

I. The United States initiated this action on July 28, 2015, against the City of Petal, Mississippi ("the Defendant" or the "City") 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" or "FHA"), 42 U.S.C. §§ 3601-3619, and Title II of the Americans with Disabilities Act, 42 U.S.C. §§ 12131, *et seq.* (the "Americans with Disabilities Act" or "ADA"). In its Complaint, the

United States alleges that the City violated the FHA and the ADA on the basis of disability when it took actions to prevent three men with disabilities (the “Residents”) to reside together in a rented home in Petal, in Forrest County, under the same terms and conditions as residents without disabilities.

2. Specifically, the United States contends that the Defendant violated the FHA and the ADA when, beginning in or about December 2012, it took action to prohibit the Residents from occupying a three-bedroom single-family dwelling located at West Temple Road in the City (the “subject property”). In or about November 2012, Scioto Properties SP-15 LLC (“Scioto”), an Ohio-based limited liability company, purchased the subject property for the purpose of making it available as a supported residence for persons with disabilities. Scioto’s business involves purchasing, renovating, and leasing properties for use by individuals with disabilities as community-based housing. Brandi’s Hope Community Services, LLC (“BHCS”) leased the subject property from Scioto with the intention of establishing a residence for three persons with disabilities. Mississippi’s Department of Mental Health (“DMH”) determined that the Residents were eligible to move to the subject property with appropriate support. The Residents, all life-long Mississippi residents, previously lived at the Ellisville State School (“Ellisville”) in Ellisville, Mississippi. Ellisville, a large, congregate facility operated by the DMH, provides residential care and services to individuals with intellectual disabilities. The City’s Building Inspector and, subsequently, the Planning Commission determined that Mr. Cowart, the owner of BHCS, violated City Zoning Ordinances by permitting the Residents to live at the subject property. The City caused a warrant to be issued to Mr. Cowart pertaining to a misdemeanor

zoning violation. The Planning Commission denied Mr. Cowart's requests for reasonable accommodation. The mayor and Board of Aldermen decided that the residents would be granted an extension limited to six months.

3. In April 2014, the City decided not to pursue its enforcement action against the Residents. In November 2014, the City notified the United States that it had amended the zoning ordinance and indicated its willingness to make further revisions as necessary to comport with the FHA and ADA. The City also caused to be dismissed its prosecution of Mr. Cowart relating to this matter.

4. With regard to the FHA, the United States alleges that the City of Petal's actions described above constitute:

- a. violations of the FHA §§ 3601-3619; and
- b. a pattern or practice of resistance to the full enjoyment of rights granted by the FHA , or a denial of rights to a group of persons that raises an issue of general public importance in violation of the Fair Housing Act, 42 U.S.C. §§ 3614(a).

5. Regarding the ADA, the United States alleges that the Defendant City of Petal's actions described above:

- a. constitute discrimination in violation of Title II of the ADA, 42 U.S.C. § 12132, and its implementing regulation, 28 C.F.R. Part 35; and
- b. interfere with an individual in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected by the ADA,

in violation of Title V of the ADA, 42 U.S.C. § 12203(b).

6. On November 24, 2014, Scioto, Brandi's Hope Community Services, LLC ("BHCS"), and Danny Cowart (collectively, "Private Plaintiffs") filed a Complaint against the City in the United States District Court for the Southern District of Mississippi, *Cowart et al v. City of Petal, Mississippi*, 2:14-cv-00188-KS-MTP, alleging discrimination in housing on the basis of disability. The action filed by the Private Plaintiffs makes allegations similar to those alleged by the United States.

7. On July 7, 2015, the City adopted Ordinance 2012 (130-A1), comprised of amendments to the City's Ordinance Establishing a Registration and Inspection Program for Rental Housing Units Located within the City of Petal, Mississippi ("Rental Registration Law"), as set forth in **Attachment A**.

8. On July 7, 2015, the City adopted Ordinance 1979 (42-A393) (definition changes) amending the CZL, as set forth in **Attachment B**.

9. On July 7, 2015, the City adopted Ordinance 1979 (42-A394) (reasonable accommodation), amending the CZL, as set forth in **Attachment C**.

10. This Consent Decree (the "Decree") is intended to effect a comprehensive settlement of the United States' and the related claims of the Private Plaintiffs. To avoid costly and protracted litigation, the United States, the Defendant, and the Private Plaintiffs have jointly and voluntarily entered into and consent to the entry of this Decree to resolve the claims presented, as indicated by the signatures below.

11. Defendant expressly denies any wrongdoing. It is understood and acknowledged that

this Consent Decree does not constitute an admission by the City of any violation of the FHA, ADA, or any other law.

Accordingly, it is hereby ORDERED, ADJUDGED, and DECREED:

II. JURISDICTION

12. The Court has jurisdiction over this action, and may grant the relief sought herein under 28 U.S.C. §§ 1331 and 1345, and 42 U.S.C. §§ 3614(a), 3613, and 12133.

III. DEFINITIONS

13. The following definitions apply to the terms when used in this Decree:

a. The terms “**Defendant**” and “**City**” include the City of Petal, the Petal Board of Aldermen, the City’s employees, elected or appointed officials, officers, agents, and persons or entities acting in concert or participation with them;

b. “**Disability**” and the equivalent term “**handicap**” refer to the definitions included in the Fair Housing Act, see 42 U.S.C. § 3602(h); 24 C.F.R. § 100.201; and in the Americans with Disabilities Act, see 42 U.S.C. § 12102(1); 28 C.F.R. § 35.104.

c. The term “**Family**” refers to the following definition, as included in the City of Petal Ordinance Number 1979 (42-A390), Article V, Section 5.23: one or more persons who are related by blood, marriage, or adoption occupying a dwelling unit and living as a single housekeeping unit; or one or more persons [up to four (4) persons] who are not all related by blood, marriage, or adoption, occupying a dwelling unit and who are living as a single housekeeping unit. A person or persons with disabilities will not be excluded from the definition of “family” if the person(s) occupying the dwelling unit otherwise meet this definition,

regardless of whether the person(s) reside in a home established, maintained, or supported by a for-profit or not-for-profit entity.

d. The term **“Group Home”** refers to the following definition, as included in the City of Petal Ordinance Number 1979 (42-A390), Article V, Section 5.32: a dwelling for five (5) or more persons with disabilities (as the term ‘disabilities’ is defined by the Fair Housing Act or the Americans with Disabilities Act) who live as a single housekeeping unit and who receive personal care or other support or supervision. Four or fewer persons with disabilities who live together in a dwelling as a single housekeeping unit constitute a **“Family”** rather than a **“Group Home.”**

e. **“Reasonable Accommodation”** refers to accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford a person with a disability an equal opportunity to use and enjoy a dwelling, within the meaning of 42 U.S.C. § 3604(f); and **“reasonable modifications”** as used in the implementing regulation for Title II of the ADA at 28 C.F.R. § 25.130(b)(7).

f. The **“effective date of the Decree”** refers to the date the Court enters this Consent Decree.

IV. GENERAL INJUNCTIONS AND NONDISCRIMINATION PROVISIONS

14. The Defendant shall not:

a. deny, or otherwise make unavailable, a dwelling to a buyer or renter because of a disability of that buyer or renter, of any person residing in or intending to reside in such dwelling, or of any person associated with such buyer or renter;

b. discriminate against any 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 such dwelling, because of a disability of that person, of any person residing in or intending to reside in such dwelling, or of any person associated with that person;

c. refuse to make reasonable accommodations (as defined in Paragraph 12.d, above) in its rules, policies, practices, or services, when such accommodations may be necessary to afford a disabled person an equal opportunity to use and enjoy a dwelling; or

d. coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of, any right protected by the Fair Housing Act or the ADA.

15. The preceding injunctions shall specifically, but not exclusively, cover:

a. administering, enforcing, or amending zoning ordinances of the City of Petal, including, but not limited to, receiving, evaluating, or deciding upon applications for building permits, special exceptions, variances, or uses not provided for; and

b. conducting hearings, inspecting premises, issuing certificates of zoning compliance or certificates of occupancy, or in reviewing any decision made by any zoning, land-use, or building official.

**V. MODIFICATION OF PETAL ZONING CODE AND
RENTAL REGISTRATION LAW**

16. The Defendant acknowledges that:

- a. the individuals residing at the subject property constitute a family under the CZL and the City's Rental Registration Law;
- b. Private Plaintiffs do not require a reasonable accommodation to provide support services to the individuals who reside at the subject property; and
- c. Private Plaintiffs, and other owners/providers of support services to individuals with disabilities who reside in single-family dwellings, do not require Rental Registration Permits to provide support services to the individuals who reside at the subject property.

17. The Defendant shall not modify the definition of "family" in a manner that has the effect of limiting the number of persons who constitute a family compared with the definition listed in Paragraph 13 above, as amended by this Consent Decree. In addition, the Defendant shall not otherwise modify the CZL, the Rental Registration Law, or any other ordinance in a manner such that the modification narrows, reduces or limits the rights of persons with disabilities to reside in a residence of their choosing.

18. At least thirty (30) days prior to adopting any amendments or modifications to the CZL or to other City rules, laws, or ordinances, that affect the definitions, terms, or provisions of this Decree, the Defendant shall provide the United States copies of the proposed amendments or modifications.

19. Within ten (10) days of adopting any amendments or modifications described in

Paragraph sixteen (16) of the Decree, the Defendant shall send copies of the enacted amendments or modifications to the United States.

VI. ESTABLISHMENT AND IMPLEMENTATION OF REASONABLE ACCOMMODATION POLICY

20. On November 18, 2014, the Defendant adopted an ordinance, providing for Reasonable Accommodation/Modification relating to its rules, policies, practices, and in the provision of its services regarding the CZL. On July 7, 2015, the City amended the Reasonable Accommodation/Modification ordinance, as set forth in Attachment C. Within sixty (60) days after the date of entry of this Decree, the Defendant shall: implement specific written rules for receiving and handling requests made by people with disabilities for reasonable accommodations/modifications (“Reasonable Accommodation Policy for Persons with Disabilities” or “Policy”), and provide copies of the Policy to counsel for the United States and BHCS.

21. Within sixty (60) days of the entry of this Decree and throughout the term of this Decree, the Defendant shall post and publicly display the Reasonable Accommodation Policy for Persons with Disabilities on the City's website, and at the offices of the Defendant in which announcements or vacancies are posted.

22. The Defendant shall keep written records of each request for reasonable accommodation it receives. These records shall include: (A) the name, address, and telephone number of the person making the request; (B) the date on which the request was received; (C) the nature of the request; (D) whether the request was granted or denied; and (E) if the request was denied, the reason(s) for the denial.

23. Nothing in this Decree shall be interpreted to require persons with disabilities – or providers of housing for persons with disabilities – acting or operating in accordance with applicable zoning, licensing, and/or land use laws and practices, to seek permission from the Defendant to begin or continue such action or operation.

VII. FAIR HOUSING ACT AND AMERICANS WITH DISABILITIES ACT TRAINING

24. The Defendant shall, no later than forty-five (45) days from the effective date of the Decree, provide training in the requirements of the Decree, the Fair Housing Act, and the Americans with Disabilities Act to the members and professional staff of the Board of Aldermen, the professional staff of the City of Petal's Building Department, and the Mayor and the members of the Board of Aldermen and their respective staff who have direct or supervisory authority in connection with building, zoning, and land use. The City may schedule and conduct the training required by this paragraph at any time within the 45-day period at the convenience of the City, whether in the evening or daytime, and the training may be divided in two portions to accommodate the schedules of those attending the training.

a. The training shall be conducted by a qualified third party, subject to the approval of the United States. The trainer shall be unconnected to the Defendant or its employees, officials, agents, or counsel, and any expenses associated with this training shall be borne by the Defendant.

b. As part of the training, each person trained shall be given a copy of the Decree, the FHA, and the ADA.

c. The Defendant shall, no later than ten (10) days after training, provide to the

United States certifications executed by each person trained confirming his or her attendance and date of training. The certifications shall be in the form of **Attachment D**.

d. For each person commencing employment or service in any of the positions listed in this part, the Defendant shall, no later than ten (10) days after such commencement or service, give each such person a copy of the Decree and the Fair Housing Act and shall obtain each such person's signed a certification acknowledging that he or she has received and read the Decree and the Act. This certification shall be in the form of **Attachment E**.

VIII. COMPLIANCE COORDINATOR(S)

25. No later than ten (10) days after the effective date of this Decree, the Defendant shall designate an employee(s) or official(s) of the City of Petal to receive complaints against the City of alleged housing discrimination involving housing for persons with disabilities, and to coordinate compliance with this Decree. The designated person(s) shall maintain copies of the Decree, the HUD complaint form, and the pamphlet entitled "Are You a Victim of Housing Discrimination?" (HUD official forms 903 and 903.1, respectively) and make these materials freely available to anyone upon request and without charge, including all persons making housing discrimination complaints to Defendant. The Defendant shall notify the United States in writing of the name, address, and title of the designated person(s) no later than thirty (30) days after the effective date of the Decree.

IX. REPORTING AND RECORD KEEPING

26. The Defendant shall send all documents, notices, and other communications required by the Decree to be sent to the United States to: Chief, Housing and Civil Enforcement Section,

Civil Rights Division, United States Department of Justice, 950 Pennsylvania Avenue, N.W., G Street, Washington, D.C. 20530, Attn: DJ #175-3-99. The Defendant shall send all documents, notices, and communications required by or relating to this Decree by regular United States mail and by facsimile to (202) 514-1116.

27. The Defendant shall prepare bi-annual reports in a format provided by the United States that detail the actions it has taken to fulfill its obligations under the Decree. The Defendant shall submit its first Compliance Report to the United States no later than six (6) months after the effective date of the Decree, and subsequent reports every six months thereafter, for the duration of the Decree, except that the final report shall be delivered to the United States **no fewer than sixty (60) days prior to the date upon which the Decree is scheduled to expire.**

28. The Defendant shall include the following information in the Compliance Reports:

- a. the name, address, and title of the employee or official serving as the designated person referred to in Paragraph fourteen (14);
- b. copies of the training certification and acknowledgment forms signed since the last report;
- c. any written complaint received since the last report alleging discrimination by Defendant with respect to any matter subject to the injunctions in part III, above, including a description of any action taken in response to the complaint and copies of all pertinent documents, such as a copy of the complaint, any documents filed with the complaint, and any written response to the complaint made by Defendant;

d. the identity of each zoning, land-use, or building application or request for reasonable accommodation related to housing for disabled persons (including those for building permits, special exceptions, variances, or other uses not provided for) for which Defendant has made a determination, indicating: (1) the date of the application; (2) the applicant's name; (3) the applicant's current residential street address; (4) the street address of the proposed housing; (5) the disposition of the application, including any appeals, indicating reasons for that outcome; and (6) if a vote was taken, how each participant voted and the date of the vote; and

e. all documents presented in support of oral testimony offered by any member of the public at any hearing held with respect to each such application or request that is denied by Defendant.

29. For the duration of this Decree, the Defendant shall maintain all records relating to implementation of and compliance with all provisions of the Decree, including, but not limited to, all records related to zoning, land-use, or building applications or requests for reasonable accommodation related to housing for disabled persons. The United States shall have the opportunity to inspect and copy any records maintained as required by the Decree after giving reasonable notice to the Defendant.

X. MONETARY RELIEF

30. The Defendant shall pay the sum of \$25,000 within ten (10) days of the effective date of this Decree by sending a check to counsel for private plaintiffs, payable to Brandi's Hope Community Services, LLC and Maxey Wann, PLLC.

To receive this payment, Brandi's Hope Community Services, LLC must execute a

release-of-claims form, in the form of **Attachment F**, signifying that the payment constitutes full settlement of any claims the payee may have relating to the subject matter of this action. Counsel for private plaintiffs shall obtain the signed release form and provide it to counsel for the Defendant upon receipt of the check.

XI. CIVIL PENALTY

31. Within ten (10) days of the effective date of this Decree, the Defendant shall pay \$25,000 to the United States Treasury as a civil penalty pursuant to 42 U.S.C. § 3614(d)(1)(C) to vindicate the public interest. The payment shall be in the form of an electronic fund transfer pursuant to written instructions to be provided by the United States.

32. In the event that the Defendant, its agents, or its employees engage in any future violation(s) of the FHA, against persons with disabilities or perceived disabilities, such violation(s) shall constitute a "subsequent violation" under 42 U.S.C. § 3614(d)(1)(C)(ii).

XII. DURATION OF DECREE AND TERMINATION OF LEGAL ACTION

33. The Decree shall remain in effect for a period of three (3) years after its effective date. The Court shall retain jurisdiction for the duration of this Consent Decree to enforce the terms of the Decree, after which time the case shall be dismissed with prejudice. Prior to the expiration of the Decree's term, the United States may move the Court to extend the duration of the Decree in the interests of justice, or for other good cause, including on the basis that the Defendant has failed to comply with a provision of the Decree.

34. The parties agree to work cooperatively with one another in good faith to resolve informally any differences regarding interpretation of, and compliance with, the Decree prior to

bringing such matters to the Court for resolution. However, in the event of a failure by Defendant to perform in a timely manner any act required by this Decree or otherwise to act in violation of any provision thereof, the United States may move this Court to impose any remedy authorized by law or equity, including, but not limited to, an order requiring performance of such act or deeming such act to have been performed, and an award of any damages, costs, and reasonable attorney's fees that may have been occasioned by the violation or failure to perform.

35. The parties shall have the right to seek from the court modifications of the Decree, provided that any request for a modification has been preceded by good faith negotiations between the parties. The parties may agree in writing to modify the deadlines established by this Decree without Court approval.

XIII. COSTS OF LITIGATION

36. Each party to this litigation will bear its own costs and attorney's fees associated with this litigation.

XIV. RELEASE OF LITIGATION HOLDS

37. The parties agree that, as of the date of the entry of this Decree, litigation is not "reasonably foreseeable" concerning the matters described in Paragraphs 1-4, above. To the extent that any party previously implemented a litigation hold to preserve documents, electronically stored information, or things related to the matter described in Paragraphs 1-4, above, the party is no longer required to maintain such a litigation hold. Nothing in this Paragraph relieves either party of any other obligations imposed by this Consent Decree.

It is hereby ORDERED, ADJUDGED, and DECREED this 29th day of
July, 2015.

s/Keith Starrett
United States District Judge

FOR THE UNITED STATES:

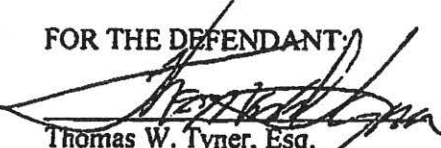
GREGORY K. DAVIS
United States Attorney

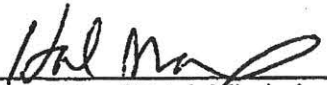
Mitzi Dease Paige
By: MITZI DEASE PAIGE
Chief, Civil Division
MS Bar No. 6014
Assistant United States Attorney
Southern District of Mississippi
501 E. Court Street - Ste. 4.430
Jackson, MS 39201-0101
Phone: 601-965-4480
Facsimile: 601-965-4409

VANITA GUPTA
Principal Deputy Assistant Attorney General
Civil Rights Division

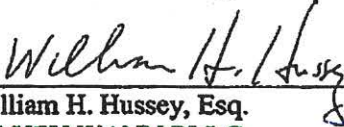
L. H. Wagner
STEVEN H. ROSENBAUM
Chief
MICHAEL S. MAURER
Deputy Chief
By: LORI K. WAGNER
Attorney
Housing and Civil Enforcement Section
Civil Rights Division
United States Department of Justice
950 Pennsylvania Avenue, NW (NWB)
Washington, D.C. 20530
Phone: 202-305-3107
Facsimile: 202-514-1116
E-mail: lori.wagner@usdoj.gov

FOR THE DEFENDANT:


Thomas W. Tyner, Esq.
TYNER, EATON & FULCE, PLLC
MS Bar #
626 Corinne Street
P.O. Box 1646
Hattiesburg, Mississippi 39403-1646
Phone: 601-336-6456
Fax: 601-602-4698
Cell: 601-270-4638


Mayor, City of Petal, Mississippi
Print Name: Hal Marx

FOR BRANDI'S HOPE, DANNY O. COWART
AND SCIOTO PROPERTIES SP-15 LLC


William H. Hussey, Esq.
MAXEY WANN PLLC
MS Bar # 102322
Suite 2100, Regions Plaza
210 E. Capitol St.
Jackson, Mississippi 39201
Phone: 601-355-8855
Fax: 601-355-8881

ORDINANCE 2012 (130-A1)

AN ORDINANCE AMENDING ORDINANCE NO. 2012 (130)
ESTABLISHING A REGISTRATION AND INSPECTION PROGRAM
FOR RENTAL HOUSING UNITS LOCATED WITHIN
THE CITY OF PETAL, MISSISSIPPI
AND
ESTABLISHING MINIMUM STANDARDS FOR RENTAL HOUSING
WITHIN THE CITY OF PETAL, MISSISSIPPI

BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF PETAL,
MISSISSIPPI:

SECTION 1: The following section of Ordinance 2012 (130) be amended as follows:

2-03: COMPLIANCE REQUIRED; APPLICATION OF ORDINANCE

The City has added the following provision to the City's Rental Registration Law in Section 2-03:

(7) Occupancy in a single-family dwelling owned and/or supported by a for-profit or non-profit provider of support services for persons with disabilities.

SECTION 2. Except as hereby expressly changed and amended, the aforesaid Ordinance No. 2012 (130) of the City of Petal, Mississippi, shall be and remain in full force.

SECTION 3. That this Ordinance shall take effect and be in full force within thirty (30) days from and after its passage as provided by law. The foregoing Ordinance having been reduced to writing, the same was introduced and read, and a vote was taken thereon, first section by section and then upon the Ordinance as a whole with the following results:

Those present and voting "AYE" and in favor of the passage, adoption and approval of Sections 1, 2 and 3 of the foregoing Ordinance:

Alderman Brad Amacker
Alderman Craig Bullock
Alderman David Clayton
Alderman Tony Ducker
Alderman William King
Alderman Clint Moore
Alderman Steve Stringer

Those present and voting "NAY" or against the adoption of any section of the foregoing Ordinance:

NONE

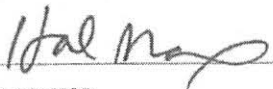
Those present and voting "AYE" and in favor of the adoption of the foregoing Ordinance as a whole:

Alderman Brad Amacker
Alderman Craig Bullock
Alderman David Clayton
Alderman Tony Ducker
Alderman William King
Alderman Clint Moore
Alderman Steve Stringer

Those present and voting "NAY" or against the adoption of the foregoing Ordinance as a whole:

NONE

WHEREUPON, the foregoing Ordinance be, and the same is hereby passed, adopted and approved on this the 7th day of July 2015.



HAL MARX, MAYOR



ATTEST:



MELISSA MARTIN, CITY CLERK

PUBLISH 1 TIME:

CITY OF PETAL
ORDINANCE BOOK 4

ORDINANCE NUMBER 1979 (42-A393)

AN ORDINANCE OF THE CITY OF PETAL, MISSISSIPPI TO REPEAL ORDINANCE 1979
(42-A390)

AND

AMENDING THE COMPREHENSIVE ZONING ORDINANCE NO. 1979 (42) OF THE CITY
OF PETAL, MISSISSIPPI, AS AMENDED BY ORDINANCE NUMBERS 1979 (42-1) THROUGH
1979 (42-A392) SO AS TO CHANGE AND AMEND CERTAIN SECTIONS OF THE OFFICIAL
ZONING ORDINANCE.

BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF
PETAL, MISSISSIPPI:

SECTION 1: That Ordinance No. 1979 (42-A390) be, and the same is hereby repealed.

SECTION 2: The following articles of Ordinance 1979 (42) be amended as follows:

ARTICLE V. DEFINITIONS

Addition of the following definition:

5.16. Disability. For purposes of this Ordinance, a "disability" is synonymous with "handicap," as defined by 42 U.S.C. § 3602(h).

Renumeration of definitions beginning with 5.17. District through 5.79. Yard, Side.

Amendment and renumeration of the following definition:

5.24. Family. One or more persons who are related by blood, marriage, or adoption occupying a dwelling unit and living as a single housekeeping unit; or one or more persons [up to four (4) persons] who are not all related by blood, marriage, or adoption, occupying a dwelling unit and who are living as a single housekeeping unit. A person or persons with disabilities will not be excluded from the definition of "family" if the person(s) occupying the dwelling unit otherwise meet this definition, regardless of whether the person(s) reside in a home established, maintained, or supported by a for-profit or not-for-profit entity.

Amendment and renumeration of the following definition:

5.33. Group Home. A dwelling for five (5) or more persons with disabilities (as the term 'disabilities' is defined by the Fair Housing Act or the Americans with Disabilities Act) who live as a single housekeeping unit and who receive personal care or other support or supervision.

SECTION 3. Except as hereby expressly changed and amended, the aforesaid Comprehensive Zoning Ordinance No. 1979 (42) of the City of Petal, Mississippi, shall be and remain in full force.

SECTION 4. That this Ordinance shall take effect and be in full force within thirty (30) days from and after its passage as provided by law. The foregoing Ordinance having been reduced to writing, the same was introduced and read, and a vote was taken thereon, first section by section and then upon the Ordinance as a whole with the following results:

Those present and voting "AYE" and in favor of the passage, adoption and approval of Sections 1, 2 and 3 of the foregoing Ordinance:

ALDERMAN BRAD AMACKER
ALDERMAN CRAIG BULLOCK
ALDERMAN DAVID CLAYTON
ALDERMAN TONY DUCKER
ALDERMAN WILLIAM KING
ALDERMAN CLINT MOORE
ALDERMAN STEVE STRINGER

Those present and voting "NAY" or against the adoption of any section of the foregoing Ordinance:

NONE

Those present and voting "AYE" and in favor of the adoption of the foregoing Ordinance as a whole:

ALDERMAN BRAD AMACKER
ALDERMAN CRAIG BULLOCK
ALDERMAN DAVID CLAYTON
ALDERMAN TONY DUCKER
ALDERMAN WILLIAM KING
ALDERMAN CLINT MOORE
ALDERMAN STEVE STRINGER

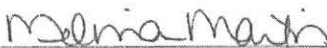
Those present and voting "NAY" or against the adoption of the foregoing Ordinance as a whole:

NONE

WHEREUPON, the foregoing Ordinance be, and the same is hereby passed, adopted and approved on this the 7th day of July 2015.


HAL MARX, MAYOR




MELISSA MARTIN, CITY CLERK

PUBLISH | TIME:

CITY OF PETAL
ORDINANCE BOOK 4

ORDINANCE NUMBER 1979 (42-A394)
Reasonable Accommodation Policy

**AN ORDINANCE OF THE CITY OF PETAL CHANGING AND AMENDING THE
COMPREHENSIVE ZONING ORDINANCE NO. 1979 (42) OF THE CITY OF PETAL,
MISSISSIPPI, AS AMENDED BY ORDINANCE NUMBERS 1979 (42-1) THROUGH 1979
(42-A393) SO AS TO CHANGE AND AMEND CERTAIN SECTIONS OF THE OFFICIAL
ZONING ORDINANCE TO PROVIDE FOR REASONABLE ACCOMMODATION OR
MODIFICATION**

BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF
PETAL, MISSISSIPPI:

SECTION 1: The following articles of Ordinance 1979 (42) be amended as follows:

ARTICLE XI. PLANNING COMMISSION

11.66 Requests for Reasonable Accommodation or Modification.

A person/s with a disability or a person or housing or services provider acting on behalf of an individual/s with a disability ("Applicant") may request a reasonable accommodation or modification relating to the zoning ordinance. A request for reasonable accommodation or modification ("Request") may include a modification or exception to the policies, services, rules, standards and practices for the siting, development, and use of housing or housing-related facilities. It is the City's policy to eliminate regulatory barriers and to provide persons with disabilities equal opportunities to use and enjoy specific dwellings of their choice within the City.

A person with a disability is a person who has a physical or mental impairment that limits one or more major life activities, anyone who is regarded as having this type of impairment, or anyone who has a record of this type of impairment. A person recovering from substance abuse is considered a person with a disability under 42 U.S.C. § 3602(h).

The Applicant shall address a Request to the Building Department Director ("Director") or to another Building Department staff member, zoning official, or law enforcement officer who has communicated with the Applicant regarding his or her zoning matter. The Applicant may make this Request orally or in writing. If requested by the Applicant, or if it is apparent to a City employee or staff that assistance is needed, the Director shall, in a timely manner, assist in obtaining information required by the City in filling out an application. The application shall be made by filling out a form, which the Director shall provide.

The form shall indicate or include:

- A. the current zoning for the property;
- B. the name of the owner of the fee interest of the property (if other than the Applicant);
- C. the reasons why the Applicant requests the accommodation or modification to use and enjoy the housing. In the event that the specific individuals who are expected to reside at the property are not known to a provider in advance of making the application, the provider shall state the reasons why the accommodation or modification is needed;
- D. the specific type of accommodation or modification requested by the Applicant;
- E. a notice to Applicants providing that, should the information provided by the Applicant include medical information or records of the proposed resident(s), including records indicating the identity, medical condition, diagnosis or medical history of the proposed resident(s), the medical information shall be treated as confidential, to the extent allowed by law, and shall not be available for public inspection unless the persons with disabilities

who are the subject(s) of the information or their legal representatives specify in writing otherwise; and

- F. any other information the Applicant believes would assist in determining the reasonableness of the accommodation or modification requested.

While an application for reasonable accommodation or modification or appeal of a denial of the Application is pending before the City, the City will not enforce the subject zoning ordinance against the Applicant or the person(s) on whose behalf he or she applied.

The City shall acknowledge all requests for reasonable accommodation or modification, in writing, within seven (7) days of the City's receipt of an oral or written request. The Director is empowered to approve reasonable accommodation requests, based on the Applicants' completion of the form specified above. The Director shall approve or otherwise decide on Requests within fourteen (14) days of completion of each application. If the Director does not approve a request, he shall, within fourteen (14) days of completion of the application, make a written recommendation to the Planning Commission specifying the reasons why the request should be modified or denied. Upon receipt of the Director's recommendation, the Planning Commission shall conduct a hearing on the request. Said hearing shall comply with public hearing conditions as stated in the Comprehensive Zoning Law.

The Applicant need provide only the information necessary for the City to evaluate the reasonable accommodation or modification request. In most cases, an individual's medical records or detailed information about the nature of a person's disability is not necessary for this inquiry. To protect the confidentiality of any medical information provided by the Applicant or contained in the application, the Planning Commission shall, to the extent allowed by law, enter into executive session to review and discuss said medical information. The non-confidential portion of the hearing shall be conducted in public. The Planning Commission shall issue a written decision specifying its grounds for granting, denying or modifying the application. After such hearing, the Planning Commission shall make its recommendation to the Mayor and Board of Aldermen, which recommendation may be accepted or rejected by the Board, or may be accepted in part and rejected in part or may be sent back to the Planning Commission for further hearing. The City shall provide written notice to the Applicant, and any person designated by the Applicant to represent the Applicant in the application proceeding, of any request received by the City for disclosure of the medical information or documentation which the Applicant has previously submitted to the City. The City will cooperate with the Applicant, to the extent allowed by law, in actions initiated by the Applicant to oppose the disclosure of such medical information or documentation.

The City shall provide written notification to those requesting a reasonable accommodation or modification of the decision regarding their request for accommodation or modification within thirty (30) days of the receipt of the request. If the City denies a request, it shall include an explanation of the basis for such denial in this written notification. A Request may not be denied for reasons that violate the Fair Housing Act or the Americans with Disabilities Act.

In the event that the Director or the Planning Commission does not issue a decision as required by the time frames specified herein and in other pertinent sections of the Ordinance, the application shall be decided upon by the Mayor and Board of Aldermen.

Upon approval of the application, whether modified or not, the Applicant shall be entitled to undertake said reasonable accommodation or modification, and shall be entitled to any attendant licensure by the city that is outlined in the application as approved by the Mayor and Board of Aldermen. If a business license is required as part of the reasonable accommodation or modification, the business license official shall issue said license upon approval of the accommodation or modification.

The accommodation or modification shall be in force and effect as long as the Applicant owns and/or resides in said structure. Said reasonable accommodation or modification shall be limited to the number of people availing themselves of the reasonable accommodation or modification as approved by the Mayor and Board of Aldermen.

Nothing in this Chapter requires persons with disabilities or operators of supported housing for persons with disabilities acting or operating in accordance with applicable zoning, licensing or land use laws or practices to seek reasonable accommodation or modification under this Chapter.

A request for a reasonable accommodation submitted by or on behalf of residents of a group home shall not be denied solely because the group home is sited in a residential zone and is established, maintained, or supported as a for-profit or entity.

The City shall prominently display a notice at the counter in the City building Department advising those with disabilities or their representatives that they may request a reasonable accommodation or modification in accordance with the procedures established in this Chapter. A copy of the notice shall be available upon request.

The City shall maintain records of all oral and written requests for reasonable accommodation or modification, the City's responses thereto, and all hearings transcripts, correspondence, and all other related records.

The City shall not impose any fees or costs, or otherwise retaliate against any person who has exercised his or her right under the Fair Housing Act or the Americans with Disabilities Act to make one or more reasonable accommodation or modification requests.

Nothing in this section will require the city to expend any funds to achieve a reasonable accommodation or modification except and to the extent required by federal law.

ARTICLE XIV. LEGAL STATUS PROVISIONS.

14.30. Construction, Application and Enforcement Consistent With Federal Law

The provisions of this Ordinance shall in every instance be construed, applied and enforced in a manner consistent with applicable federal law, including, but not limited to, 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. §§ 3601-3619; and Title II of the Americans with Disabilities Act (the ADA), 42 U.S.C. §§ 12131-12134. Notwithstanding any other provision of this Ordinance to the contrary, the Director, Planning Commission Members, and other City officials with zoning-related responsibilities shall make reasonable accommodation or modifications in the rules, policies, and practices of their offices so that handicapped or disabled persons or a provider of housing for a handicapped or disabled persons are not discriminated against and are afforded an equal opportunity to use and enjoy the dwellings.

Renumeration:

14.40 Repeal of Conflicting Ordinance

14.50 Effective Date of Ordinance

SECTION 2. Except as hereby expressly changed and amended, the aforesaid Comprehensive Zoning Ordinance No. 1979 (42) of the City of Petal, Mississippi, shall be and remain in full force.

SECTION 3. That this Ordinance shall take effect and be in full force within thirty (30) days from and after its passage as provided by law. The foregoing Ordinance having been reduced to writing, the same was introduced and read, and a vote was taken thereon, first section by section and then upon the Ordinance as a whole with the following results:

Those present and voting "AYE" and in favor of the passage, adoption and approval of the foregoing Ordinance:

Alderman Brad Amacker
Alderman Craig Bullock
Alderman David Clayton
Alderman Tony Ducker
Alderman William King
Alderman Clint Moore
Alderman Steve Stringer

Those present and voting "NAY" or against the adoption of the foregoing Ordinance as a whole:

NONE

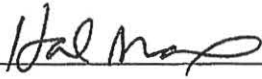
Those present and voting "AYE" and in favor of the passage, adoption and approval of the foregoing Ordinance:

Alderman Brad Amacker
Alderman Craig Bullock
Alderman David Clayton
Alderman Tony Ducker
Alderman William King
Alderman Clint Moore
Alderman Steve Stringer

Those present and voting "NAY" or against the adoption of the foregoing Ordinance as a whole:

NONE

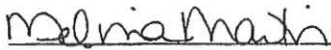
WHEREUPON, the foregoing Ordinance be, and the same is hereby passed, adopted and approved on this the 7th day of July, 2015.



HAL MARX, MAYOR



ATTEST:



MELISSA MARTIN, CITY CLERK

PUBLISH I TIME:

Attachment D

**Certification of Attendance at Fair Housing Act and
Americans with Disabilities Act Training**

On _____, I attended training on the Consent Decree entered by the federal district court in *United States v. City of Petal, et al.*, Civil No. [_____] (S.D. MS) on _____, 2015), the federal Fair Housing Act (FHA) and the Americans with Disabilities Act (ADA). I have had all of my questions concerning these documents answered to my satisfaction.

(Signature)

(Print name)

(Print job title)

(Date)

Attachment E

**Acknowledgment of Receipt of Copies of Consent Decree, the
Fair Housing Act, and the Americans with Disabilities Act**

On _____, I received copies of and have read the Consent Decree entered by the federal district court in *United States v. City of Petal, et al*, Civil No. _____ (S.D. MS.) on _____, 2015), the federal Fair Housing Act, and the Americans with Disabilities Act. I have had all of my questions concerning these documents answered to my satisfaction.

(Signature)

(Print name)

(Print job title)

(Date)

Attachment F

GENERAL RELEASE IN FULL AND FINAL SETTLEMENT OF CLAIMS

Relating to the Consent Decree
United States v. City of Petal, et al., Civil Action No. [XX] (S.D. MS.)
filed _____, 2015

In consideration of the parties' agreement to the terms of the Consent Decree entered by the Court in United States v. City of Petal, et al., Civil Action No. [XX] (S.D. MS), and the Defendant's payment of the sum of _____ (\$25,000) to Brandi's Hope, I, _____, my heirs and assigns, hereby release the Defendant in this action, the City of Petal and the Petal Board of Aldermen, and their successors, insurers, agents and assigns, from any and all liability for any existing pending or potential claims or causes of action, legal or equitable, I may have against them arising out of the allegations raised in this action or any related action or complaint pending before HUD involving this Defendant. I hereby acknowledge that I have read and understand this release and have executed it voluntarily and with full knowledge of its legal consequences.

In witness whereof, with the intent to be legally bound hereby, we have hereunto set our hands and seals this _____ day of _____, 2015. _____

Name and Address

