

## Reasonable Accommodation and Modification Requests

Under the Fair Housing Act, individuals with disabilities have the right to make reasonable accommodation and modification requests. The Fair Housing Act only applies to an individual's residence. Other laws apply to employment, public accommodations, and government services. Often, individuals with disabilities have a very difficult time finding housing that meets all of their unique needs. The right to request reasonable accommodations allows individuals with disabilities to identify specific individual housing needs created by their disability and ask housing providers to meet those needs. The goal is to provide individuals with disabilities with as many housing options as possible. Reasonable accommodation requests can also serve as a communication tool and a way to educate housing providers about the needs of individuals with disabilities.

The main limitation on requests is that the change requested must be reasonable. What is reasonable varies depending on the particular housing situation, the housing provider, and the individual making the request. Housing providers can deny a request if the request 1) creates an undue financial and administrative burden or 2) fundamentally alters the nature of the housing provider's business. What is reasonable is very discretionary; therefore, it can be uncertain whether a court or administrative agency will enforce the request.

### What is a reasonable accommodation?

Individuals with disabilities have the right to request exceptions to their housing providers' rules, policies, and practices. An individual must establish that he/she has a disability that substantially limits a major life function, and that the accommodation or exception requested is necessary because of his/her disability. The accommodation requested must be necessary to access housing, maintain housing, or have full use and enjoyment of an individual's current housing.

### **Example of a Request to Modify a Rule, Policy, or Procedure:**

If a landlord has a no-pet policy, a woman who is sight impaired has the right to request an exception to the no-pet policy for her seeing-eye dog. In this situation, the dog is the same as a wheelchair or a cane; it is a tool that helps the tenant to be mobile and active, and it is not a pet. Because the dog is not a pet, the landlord cannot charge the tenant any fees or deposits for the dog, just as the landlord cannot charge a deposit because someone uses a wheelchair. However, the landlord may charge the tenant for any damage her seeing-eye dog does to the property. In addition, if the seeing-eye dog is a safety threat because the dog attacks another tenant, or the dog constantly barks or exhibits other behavioral problems that disturb other tenants, the landlord can tell the tenant she cannot have that particular seeing-eye dog.

However, the tenant still has the right to get a different seeing-eye dog.

Housing providers cannot charge fees or deposits for necessary accommodations because this in effect would allow them to charge individuals more money because they are disabled. Reasonable accommodation requests do not meet wants or desires — they meet needs. The individual making the request is not *choosing* to make the request; they *must* make the request in order to satisfy their housing needs. However, just like any other tenant, if an individual with a disability damages the property directly or through their reasonable accommodation request, the individual must pay for the damages.

### **What is a reasonable modification?**

Individuals with disabilities also have the right to request reasonable modifications to the structure of their residence. The modification must be necessary because of the individual's disability. In addition, private landlords can require the individual with a disability to make the modification and pay for it. Private landlords may also request that when the individual moves out, if he/she restores the premises to its original condition and pays for any damage caused by the modification.

#### **Example of a Request for a Structural Modification:**

A man who uses a wheel chair has the right to ask his private landlord to allow him to install a ramp on any inaccessible walkway that he uses in the complex. Most walkways at an apartment complex are not considered to be open to the public, but part of an individual's residence. If the walkway just provides access to the individual's residence, then the landlord can require the individual to install and pay for the ramp. The landlord also has the right to require the tenant to have the work done in a professional manner and obtain a permit if the local building code requires a permit to install the ramp. As under reasonable accommodation requests, the modification cannot create a health or safety risk to other tenants.

Under different laws, federally subsidized landlords are required to make and pay for the necessary modifications.

### **When is it appropriate to request a reasonable accommodation or modification?**

Individuals with disabilities must make a verbal or written request for a reasonable accommodation. Requests must be reasonable, related to the individual's disability, and further the individual's ability to get or keep his/her housing. The request may be made while applying for housing or at any time during the tenant's occupancy. Requests can be made after the tenant receives a notice or warning, and often tenants are not aware that there is a potential problem until they receive a warning or notice from the landlord. However, to prevent stress and conflict, the tenant should make the request

as soon as he or she perceives a need.

### **Verification from a qualified individual may be necessary.**

Housing providers have the right to ask for verification from a qualified individual that the tenant is disabled and the change or modification is necessary because of the tenant's disability. A qualified individual is anyone with expert knowledge in the area, who has knowledge of the individual's disability and needs. Although an individual needs verification that the request is related to his disability, this does not mean that a tenant is required to provide a doctor's prescription for the requested change. If it is possible, the tenant should have the verification available when he/she makes the request.

### **How do I make a reasonable accommodation request?**

The request may be made verbally or in writing. In general, it is a good idea to document the person requesting a reasonable accommodation's interaction with the housing provider. Therefore, it is preferable to put the request in writing and to keep a copy of the request on record. The request should include the following:

"This is a request for a reasonable accommodation."

"I have a disability that substantially limits the major life function(s) of \_\_\_\_\_."

"Because of my limited ability to \_\_\_\_\_, I need \_\_\_\_\_."

"Therefore please make an exception to your \_\_\_\_\_ policy."

"I need this accommodation in order to live in this housing."

"Please respond to my request by \_\_\_\_\_ (specify a date, generally 10-14 days from the date you send the notice is sufficient time)."

"If I don't hear back from you by \_\_\_\_\_ (date specified above), I will assume that you denied my request."

The individual requesting the reasonable accommodation should be very clear that the needed reasonable accommodation is connected to his or her disability, and that the change is necessary to live in his/her housing.

If the housing provider ignores the request, the individual can pursue an enforcement action because a time limit has been set, and if there is no response by the end of the time period the individual with the disability may proceed as if the housing provider denied the request. The request, should *not* threaten the housing provider with the possibility of a formal complaint.

Housing providers interested in information about reasonable accommodations or fair housing in general can call FHCO at 503-223-8197 or 1-800-424-3247.

### **Why can a reasonable accommodation request be denied?**

Individuals with a disability have the right to determine which change or exception would best meet their needs. However, once a disabled individual establishes that he/she is disabled and the request is necessary because of his/her disability, a request may be denied for two reasons:

- 1) The change or exception would create an **undue financial and administrative burden,**
- 2) The change or exception would **fundamentally alter the nature of the landlord's business.**

The landlord cannot deny a request merely because it creates some financial expense or requires the landlord to do some extra paperwork. The expense or the administrative work must be undue. The same is true if the change requires the landlord to change the way they conduct their business. Most reasonable accommodation requests will require the landlord to change the way he/she conducts his/her business, however for the landlord to deny the request, the change must be fundamental such as requiring the landlord to wash the tenant's laundry or requiring the landlord to walk the tenant's service animal.

### **What does a tenant do if the reasonable accommodation request is denied?**

If the request meets the above criteria and the housing provider denies or ignores the request, the individual requesting the reasonable accommodation can pursue enforcement action by filing an agency complaint with either the Federal Department of Housing and Urban Development (HUD) or the Oregon State Bureau of Labor and Industry (BOLI), or you may file a lawsuit. For an appropriate referral, please call the Fair Housing Council of Oregon at 503-223-8197 or 1-800-424-3247.

HUD Complaint Hotline 1-800-877-0246

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