

ACCOMMODATIONS and MODIFICATIONS

One of the major issues involved in making Fair Housing decisions is when to make reasonable accommodations and/or a reasonable modifications for a tenant.

A **reasonable accommodation** is a change, exception, or adjustment to a rule, policy, practice, or service that allows a person with a disability to use and enjoy a dwelling, as well as public and common use areas of a land lease community.

A **reasonable modification** is a structural change made to a resident's actual dwelling or to the common areas of the community, which is necessary to enable a resident with a disability to have full use of and enjoyment of the housing.

The manner in which a landlord goes about handling these requests is very important.

Requests for modification or accommodation should be in writing and accompanied by verification from a doctor, or other qualified third party who, in their profes-

sional capacity, has knowledge about the person's need for the accommodation/modification.

Make the process interactive and evaluate each request on a case by case basis, and should be handled in a timely and professional manner.



The reasonableness of a particular request depends on various factors, including but not limited to undue financial, administrative burden, or unreasonable fundamental alteration of a dwelling or structure, as well as whether the request poses a threat to other residents of the community.

If the initial modification/accommodation proposed by the tenant is determined to be unreasonable and more than one alternative is available, the landlord should consider offering a modification/accommodation that still meets the resident's needs. In other words, if there is a different solution available consider offering it to solve the resident's issue.

Examples

Examples of reasonable accommodations include:

- a rental form in large print
- a dedicated accessible parking space
- moving monthly residents meeting to an accessible location
- reading notices to tenants

Examples of reasonable modifications include:

- a grab bar in a shower
- a ramp
- extra lighting
- visual alarm system on smoke detector
- non-slip strips on stairs

A word about service animals — WOOF!

The single largest issue in the area of accommodation involves when a tenant asks for a change in the community's pet policy for their service animal.

In making a decision on such an accommodation, the landlord should strictly adhere to the Department of Housing and Urban Development Guidance on Service Animals and Assistance Animals for People with Disabilities (a copy of which is attached to the email delivering this Update).

The same principles apply to service animals as apply to other requested accommodations. The HUD Guidance states that the housing provider must consider two things.

First, does the person seeking to use and live with the animal have a disability? Secondly, does the person making the request have a disability-related need for an assistance animal?

If the answer to either of these questions is “no” then a housing provider is not required to make a modification to its “no pets” policy and the reasonable accommodation request may be denied.

On the other hand, if the answer to both questions are “yes,” the housing provider is required by law to make an exception to its “no pets” rule allowing the person with the disability to live with and use the service animal.

Note that the HUD Guidance also provides the request may be denied if: “(1) the specific assistance animal in question poses a direct threat to the health or safety of others that cannot be reduced or eliminated by another reasonable accommodation, or (2) the specific assistance animal in question would cause substantial physical damage to the property of others that cannot be reduced or eliminated by another reasonable accommodation.”

HUD directs that breed, size and weight may not be applied in the exception referenced above. Instead, the decision must be made based on an “individualized assessment that relies on objective evidence about the specific animal's actual conduct

- not on mere speculation or fear about the types of harm or damage an animal may cause and not on evidence about harm or damage other animals have caused.”

In making a determination, the landlord may ask the tenant “to submit reliable documentation of a disability and their disability-related need for an assistance animal.”

In particular, for people seeking an accommodation for emotional support animals, you can ask them to provide “documentation from a physician, psychiatrist, social worker or other mental health professional that the animal provides emotional support and that alleviates one or more of the identified symptoms or effects of an existing disability.”

A landlord may not require a pet deposit for a service animal.

This article is merely a quick overview of the topic. For more information, please read HUD's Guidance on Service Animals and Assistance Animals for People with Disabilities.



For more information, questions, or to get copies of past Updates, contact MHI's General Counsel, Rick Robinson, at rrobinson@mfgghome.org.