



TROUBLESHOOTING TIPS FOR BELOW MARKET RATE (BMR) RENTAL UNITS: REASONABLE ACCOMMODATIONS

DATE PUBLISHED: SEPTEMBER 2020

TABLE OF CONTENTS

Topic	Slide
Training Goals	3
Reasonable Accommodations/Modifications Definitions	5
Reasonable Accommodations/Modifications Examples	6
Parties Responsible for Costs	7
Regulations and Guidance	8
Good Communication Practices	12
Responding to a Request	14
Common Reasonable Accommodation Requests – Live-in Aides	19
Common Reasonable Accommodation Requests – Assistance Animals	21
Common Reasonable Accommodation Requests – Completing Applications	24
Common Reasonable Accommodation Requests - Additional Time	25
Best Practices for Common Scenarios	26

TRAINING GOALS

This training provides staff with solutions to common BMR reasonable accommodation issues.

Notes on key terms in this training:

- “BMR” refers to BMR rental housing, not the BMR Ownership Program for first time homebuyers
- “Staff” refers to property management staff

RELATED TRAININGS IN BMR SERIES



INTRODUCTION
TO BMR RENTAL
HOUSING



INCOME
ELIGIBILITY



REPORTING BEST
PRACTICES



TROUBLESHOOTING
ASSISTANCE

HOUSEHOLD CHANGES
WAITLIST
PROGRAM MANAGEMENT

REASONABLE ACCOMMODATIONS/ MODIFICATIONS DEFINITIONS

Reasonable Accommodation	Reasonable Modification
<p>An adjustment made to <u>a rule, policy, practice, or service.</u></p> <p>It may also cover extensions or special provisions made to provide households the opportunity to apply for housing or meet their program obligations under a housing program.</p>	<p>A structural change made to existing <u>physical premises</u> occupied or to be occupied by a person with disabilities.</p>

These changes are necessary to allow the person with disabilities equal opportunity to use and enjoy a dwelling. The changes can affect the person's private dwelling as well as common and public use areas.

REASONABLE ACCOMMODATIONS/ MODIFICATIONS EXAMPLES

Reasonable Accommodation	Reasonable Modification
<ul style="list-style-type: none">• Live-in aides• Assistance animals• Assistance completing an application• Additional time to submit a housing application or an appeal	<ul style="list-style-type: none">• Lowering the height of counters, door handles, or light switches• Installation of a wheelchair ramp or grab bars in showers <p>Additional resources on designing for accessibility</p> <ul style="list-style-type: none">• <u>Fair Housing Act Design Manual</u>• <u>Fair Housing Accessibility Guidelines Q&A</u>

PARTIES RESPONSIBLE FOR COSTS

Reasonable Accommodation	Reasonable Modification
<p>The <u>property</u> is usually responsible for the costs associated with a reasonable accommodation unless it is an undue financial and administrative burden.</p>	<p>Generally, under the Fair Housing Act, <u>the household or someone acting on the household's behalf</u>, is responsible for costs associated with making a reasonable modification.</p>

REGULATIONS AND GUIDANCE

REGULATIONS

There are several federal regulations providing protections for person with disabilities and their rights to reasonable accommodations:

- Fair Housing Act

Bars discrimination based on disability status in housing and housing-related transactions.

- Section 504 of the Rehabilitation Act

Bars discrimination based on disability status in any program or activity receiving federal financial assistance.

- Americans with Disabilities Act

Titles II and III bar discrimination based on disability status in all programs, services, and activities of public and private entities that own, operate, or lease places of public accommodation.

GUIDANCE DOCUMENTS

- I. [Joint Statement of HUD and DOJ on Reasonable Modifications - March 5, 2008](#) provides in-depth information on:
 - What reasonable modifications/accommodations are
 - How housing providers can comply with regulations
 - Activities that violate regulations
 - Scenarios where reasonable modification/accommodation requests may be denied
 - Who bears the costs associated with reasonable accommodations and modifications

GUIDANCE DOCUMENTS (CONTINUED)

2. HUD's Fair Housing page provides [FAQs for Reasonable Accommodations](#) on:

- When a reasonable accommodation request appropriate
- What documentation a property can legally request to verify the need for a reasonable accommodation
- When a property may deny a reasonable accommodation

GOOD COMMUNICATION PRACTICES

DISCRIMINATION COMPLAINTS

- Almost 60% of fair housing complaints made to HUD are cases that deal with reasonable accommodation or modification requests
- It is important to quickly review and respond to requests to prevent escalation and a formal complaint being filed

RESPONDING TO A REQUEST

- If additional time is needed to consider a request, staff should immediately send a written acknowledgement to the household. It should:
 - Inform the household it can expect an official response to its request within 10 calendar days
 - If applicable, request documentation of household disability status or the need for the specific accommodation requested
- Additional guidance on what can be legally requested and how to do so:
 - [Joint Statement of HUD and DOJ on Reasonable Modifications – March 5, 2008](#)
 - [Assessing a Person's Request to Have an Animal as a Reasonable Accommodation Under the Fair Housing Act – January 28, 2020](#)

DRAFTING WRITTEN NOTIFICATIONS TO APPLICANTS

Well-written notices from a property to a household contain the following details:



Date



Household name/
applicant ID
number



Deadline for a
response



Appeal process
for a decision (if
applicable)



Contact
information for
the preferred
method of
response.
e.g. An email address or
mailing address



Name of the
property staff
member who
prepared the
notice

REASONABLE ACCOMMODATIONS: APPROVALS

If the request is approved, household notification should:

- Clearly state the reasonable accommodation request is approved
- If a reasonable accommodation is approved, the property should outline the steps it will take to fulfill the request and the timeline it expects to complete it in
- If a reasonable modification is approved, the property should detail what types of modifications are approved and any specifications the household must follow when making the unit changes

REASONABLE ACCOMMODATIONS: DENIALS

If the request is denied, the property should send the household written notification that:

- Clearly states the reasonable accommodation request is denied
- Provides policy documentation supporting why the request was denied
- Informs the household they may appeal the decision within 10 calendar days of their receipt of the letter
- Provides the household information on where to send any appeals

COMMON REASONABLE ACCOMMODATION REQUESTS

REASONABLE ACCOMMODATION: LIVE-IN AIDES

A live-in aide is an attendant that resides with an elderly person (62+) or a person with disability and assists them to perform day-to-day activities the person cannot perform due to their disability.

To qualify, the aide:

- Is essential to the care and well-being of the person with disabilities
- Is not financially responsible for the household
- Would not be living in the unit except to provide the necessary supportive services

SAMPLE SCENARIO: LIVE-IN AIDES AND OCCUPANCY STANDARDS

A property's Affordable Regulatory Agreement states that a household must contain two or more people to qualify for a two-bedroom unit. However, the household consists of only one person and requires a live-in aide.

A live-in aide is not considered a household member or a participant in the BMR program. Therefore:

- The aide's income is excluded in the calculation of income at initial intake and recertifications
- An exemption is made to the occupancy rules and a second bedroom is given to the aide

REASONABLE ACCOMMODATION: ASSISTANCE ANIMALS

Reasonable accommodations for animals are often requested when a property's policy prohibits animals, or the species or breed of animal owned by the household.

REASONABLE ACCOMMODATION: ASSISTANCE ANIMALS

Three types of animals reside in units:

I. Service animals

A service animal is any animal that is trained to perform tasks for the benefit of an individual with a disability. The disability may be physical, sensory, psychiatric, intellectual, or deal with another other mental disability.

2. Emotional support animals

An emotional support animal an animal that provides therapeutic emotional support to persons with disabilities. They may be trained or untrained.

3. Pets

REASONABLE ACCOMMODATION: ASSISTANCE ANIMALS

There are guidance documents available to assist with evaluating requests:

- [Assessing a Person's Request to Have an Animal as a Reasonable Accommodation Under the Fair Housing Act – January 28, 2020](#)
 - Sample scenarios for whether to approve or deny reasonable requests
 - Best practices for complying with the Fair Housing Act when assessing requests
 - Instructions on the type of information to request from health care professionals to assess the need for the assistance animal
- [Fact Sheet on HUD's Assistance Animals Notice – January 24, 2020](#)
 - This document provides answers to common questions on how to treat reasonable accommodation requests for assistance animals

REASONABLE ACCOMMODATION: COMPLETING AN APPLICATION

- Applicants must be able to request a paper application for BMR housing. This reasonable accommodation prevents the online application process from prohibiting a person with disabilities from applying for housing.
- As a reasonable accommodation (upon request), properties should help applicants to manually fill out the BMR application.

REASONABLE ACCOMMODATION: ADDITIONAL TIME TO SUBMIT APPLICATIONS, RECERTIFICATION DOCUMENTATION, AND REQUESTS FOR APPEALS

- Persons with disabilities may have conditions or experience life events (e.g. a hospitalization) which cause them to fall out of compliance with their program obligations
- A household might request a reasonable accommodation for more time to complete the following:
 - An initial application
 - A program obligation (e.g. an income recertification)
- Property management may request documentation of the need for the reasonable accommodation as part of their review. Review the [Responding to a Request slide](#) for guidance

BEST PRACTICES FOR COMMON SCENARIOS

WHAT IF A DIFFERENT UNIT IS REQUESTED AS A REASONABLE ACCOMMODATION?

Is there an existing unit that meets the requirements?	Property Action
Yes, a vacant BMR unit	Switch household to that unit
Yes, a vacant market rate (MR) unit	Request the City allow the BMR designation to switch to the MR unit and switch the household to that unit
Yes, an occupied BMR unit	Facilitate a switch between households (and BMR designation swap, if needed)
No	Existing tenant: Allow the modifications or place the household on a waitlist for a unit that meets requirements BMR waitlist applicant: Return applicant to the waitlist and provide them with the next available unit that meets requirements

WHAT IF A REASONABLE ACCOMMODATION IS REQUESTED BY SOMEONE ON THE WAITLIST?

- Handle with the same speed and attention as a tenant. Applicants are covered by same fair housing protections.
- If applicable, request documentation of the disability status or the justification for the reasonable accommodation.
- Requesting documentation of disability status for simple requests such as a paper application are unnecessary.

WHERE TO SUBMIT QUESTIONS

- Please submit any questions to:
City of Emeryville Economic Development and Housing Division
- Email: housing@emeryville.org or Emeryville@hellohousing.org