**GUIDE FOR REASONABLE ACCOMMODATIONS AND**

**MODIFICATIONS**

# Management Agent for

# Crescent Residential Properties of Winder, LLC

# Innovation Crescent Properties, LLC



A resident or applicant is entitled under fair housing laws to a reasonable accommodation and/or modification when needed because of a disability of the resident, applicant and/or a person associated with a resident or applicant. The accommodation and/or modification must be necessary for the individual with the disability to enjoy and/or fully use services offered to other residents and/or the individual dwelling unit.

Housing providers must grant all requests for reasonable accommodations and/or modifications that are needed as a result of a disability if the request is not unduly burdensome or a fundamental alteration of the

housing program. If a request is denied, the party submitting the request should request the reasons for the denial be provided in writing if not done so.

**What is a Reasonable Accommodation?**

A reasonable *accommodation* is an exception or change that a housing provider makes to rules, policies, services or regulations that will assist a resident or applicant with a disability to take full advantage of a

housing program and/or dwelling. Fair housing laws require providers to make reasonable accommodations in their rules, policies, practices or services to give a person with a disability an equal opportunity to use and

enjoy a dwelling unit or common area. Accommodations are “reasonable” when they are practical and feasible. To deny an accommodation, a provider must show that it causes an undue burden or is unreasonable.

Reasonable accommodations can include (but are not limited to):

A change in the rules or policies or how a housing provider does things that would make it easier for a person with a disability to live in the dwelling;

Permitting a seeing eye dog for a household in a community where pets are not allowed, or not charging a deposit for a service animal for someone with a mental disability when the housing provider charges deposits for pets;

Permitting an outside agency (for instance a housekeeper) to assist a resident with a disability to meet the terms of the lease;

Requesting an accessible (handicap) parking space or designating a parking space near a door for a tenant with a disability who cannot walk long distances;

Permitting a live-in Personal Care Attendant or Live In Aide to live with a resident with a

disability who might need 24-hour assistance or the waiving of any guest fees or rules due to this need; or

A change in the way a housing provider communicates with or gives information, such as increasing the font size of typed documents to a person with a visual impairment or providing reminders of rent due for someone with a mental disability who needs reminders.

“Courts have ruled that [fair housing laws] may require a housing provider to grant a reasonable accommodation that involves costs, so long as the reasonable accommodation does not pose an undue financial and administrative burden and the requested accommodation does not constitute a

fundamental alteration of the provider’s operations.”1 It is otherwise discriminatory to charge a person with a disability an increased fee, rent or deposit because of their need of a reasonable accommodation for their

disability.

## What is a Reasonable Modification?

A reasonable *modification* is an alteration to the physical premises allowing a person with a disability to overcome obstacles that interfere with his/her use of the dwelling and/or common areas. These are

typically structural changes to the housing which are necessary to accommodate a person with a disability. Reasonable modifications can include (but are not limited to): A structural change or repair in an apartment or another part of the complex that would make it easier for a person with a disability to live in the dwelling;

Allowing the installation of a ramp at a condo unit where there are only stairs; Modifying door knobs to levers for someone with mobility impairments; or

Altering a residence so that it can be accessed and used by a person in a wheelchair, such as widening a door so one can get through it with their wheelchair.

## Who Pays for a Reasonable Modification?

In private housing, a housing provider may require that the tenant/resident pay for the cost of the modification and request that funds be set aside to restore the unit to its original condition before the modification (except for reasonable wear & tear). The housing provider may also request that a licensed contractor be obtained to make the modification and/or restoration if applicable. The housing provider may also pay for the costs of modification if the provider is willing to do so. This can occur in situations where the provider wants the modification to stay after the resident vacates. In government subsidized housing (Section 504, rural development, housing set up for those with disabilities, etc.), the housing provider typically pays for the modification unless it is an undue administrative or financial burden.

## Restoring a Reasonable Modification

The housing provider can, under certain circumstances, request the consumer create an account with deposits equal to the amount necessary to restore the dwelling to the original condition, if adaptations made would interfere with the use and enjoyment of the unit by the next consumer.

When reasonable to do so, a reasonable modification also requires leaving the *interior* of the unit

acceptable after a tenant/resident moves out for someone who does not need the modification that was made. The HUD-DOJ Statement notes, “The tenant is obligated to restore those portions of the interior of the dwelling to their previous condition only where “it is reasonable to do so” and where the housing

provider has requested the restoration. The tenant is not responsible for expenses associated with reasonable wear and tear. In general, if the modifications do not affect the housing provider’s or

subsequent tenant’s use or enjoyment of the premises, the tenant cannot be required to restore the modifications to their prior state. A housing provider may choose to keep the modifications in place at the end of the tenancy.”2

In regard to exterior modifications, a resident cannot be required to restore these changes. The HUD-DOJ Statement states: “The Fair Housing Act expressly provides that housing providers may only require

restoration of modifications made to interiors of the dwelling at the end of the tenancy. Reasonable modifications such as ramps to the front door of the dwelling or modifications made to laundry rooms or building entrances are not required to be restored.”3

1 Joint Statement of the Department of Housing and Urban Development and the Department of Justice on Reasonable Accommodations Under the Fair Housing Act-Question 9.

2 Joint Statement of the Department of Housing and Urban Development and the Department of

Justice on Reasonable Modifications Under the Fair Housing Act-Question 24.

##### Residency Requirements for Those with Disabilities

A resident with a disability who requests or receives approval for a reasonable accommodation or

modification must still be able to meet essential obligations of tenancy – they must be able to pay rent, to care for the housing, to report required information to the manager, avoid disturbing their neighbors, etc., but there is no requirement that they be able to do these things without assistance.

A housing provider also cannot deny the right of a tenant or resident whose visitor/s may have disabilities from visiting or bringing his/her service animal (a form of reasonable accommodation) when visiting that person on-site.

##### Disability Defined

In order to request a reasonable accommodation or modification, you must meet the definition of disability as stated under fair housing laws. From the HUD-DOJ Statements: “The Act defines a person with a disability to include (1) individuals with a physical or mental impairment that substantially limits one or more major life activities; (2) individuals who are regarded as having such an impairment; and (3) individuals with a record of such an impairment.

The term "physical or mental impairment" includes, but is not limited to, such diseases and

conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, Human Immunodeficiency Virus (HIV), mental retardation, emotional illness, drug addiction (other than addiction caused by current, illegal use of a controlled substance) and alcoholism.

The term "substantially limits" suggests that the limitation is "significant" or "to a large degree."

The term “major life activity” means those activities that are of central importance to daily life, such as seeing, hearing, walking, breathing, performing manual tasks, caring for one’s self,

learning, and speaking. This list of major life activities is not exhaustive. *See e.g*., Bragdon v.

Abbott, 524 U.S. 624, 691-92 (1998) (holding that for certain individuals reproduction is a major life activity).”4

If you *do* meet the definition of disability defined above, the housing provider is required by law to keep all information about your disability confidential.

If a person *does not* meet the definition of disability as defined above, that person cannot request a

reasonable accommodation or modification under fair housing laws. Instead, the individual would make the request through landlord/tenant laws or guidelines.

Please note that there are some individuals who are not protected under the definition of disability. From the HUD-DOJ Statements: “…juvenile offenders and sex offenders, by virtue of that status, are not persons with disabilities protected by the Act. Similarly, while the Act does protect persons who are recovering from substance abuse, it does not protect persons who are currently engaging in the current illegal use of controlled substances. Additionally, the Act does not protect an individual with a disability whose tenancy would constitute a “direct threat” to the health or safety of other individuals or result in substantial physical damage to the property of others unless the threat can be eliminated or significantly reduced by reasonable accommodation”5 or modification.

3 Joint Statement of the U.S. Department of Housing and Urban Development and the U.S. Department of Justice on Reasonable Modifications Under the Fair Housing Act-Question 26.

4 Ibid..

**Verification and Documentation**

If the disability is not obvious or readily visible, the housing provider can request verification that the person meets the definition of disability. This is often provided through proof of disability benefits or through a medical professional’s statement. If needed, a healthcare or medical provider could send a signed letter on professional letterhead to the housing manager answering the following questions:

Is the resident disabled as defined by fair housing laws? In their professional opinion, does the resident need the requested accommodation or modification in order to have the same opportunity as a non-disabled person to use and enjoy the housing community? The healthcare provider should keep a copy and also give a copy to the resident making the request for their records.

**When Can Requests be Denied?**

According to the HUD-DOJ Statement, requests for reasonable *accommodations* can be denied when: “…the request was not made by or on behalf of a person with a disability or if there is no disability- related need for the accommodation. In addition, a request for a reasonable accommodation may be denied if providing the accommodation is not reasonable – *i.e*., if it would impose an undue financial and administrative burden on the housing provider or it would fundamentally alter the nature of the provider's operations. The determination of undue financial and administrative burden must be made on a case-by-case basis involving various factors, such as the cost of the requested accommodation, the financial resources of the provider, the benefits that the accommodation would provide to the requester, and the availability of alternative accommodations that would effectively meet the requester's disability-related needs.”6

Sometimes, the specific accommodation requested may be difficult, time-consuming or expensive to

provide, and the housing manager may suggest alternate accommodations that may work just as well. If

the accommodation requested is the only one that will work, be prepared to explain why. Have a back-up plan in mind and be willing to discuss alternatives.

Please note that if a reasonable accommodation request is denied: “When a housing provider refuses a requested accommodation because it is not reasonable, the provider should discuss with the requester whether there is an alternative accommodation that would effectively address the requester's disability-related needs without a fundamental alteration to the provider's operations and without imposing an undue financial and administrative burden.

If an alternative accommodation would effectively meet the requester's disability-related needs and is reasonable, the provider must grant it. An interactive process in which the housing provider and the requester discuss the requester's disability-related need for the requested accommodation and possible alternative accommodations is helpful to all concerned because it often results in an effective accommodation for the requester that does not pose an undue financial and administrative burden for the provider.”7

In regard to reasonable *modifications,* according to the HUD-DOJ Statement: “A person with a disability must have the housing provider’s approval before making the modification. However, if the person with a disability meets the requirements under the Act for a reasonable modification and provides the relevant documents and assurances, the housing provider cannot deny the request.”8

5Joint Statement of the U.S. Department of Housing and Urban Development and the U.S. Department of Justice on Reasonable Accommodations Under the Fair Housing Act-Question 3 and Joint Statement of the U.S. Department of Housing and Urban Development and the Department of Justice on Reasonable Modifications-Question 4.

6Joint Statement of the U.S. Department of Housing and Urban Development and the U.S. Department of Justice on Reasonable Accommodations Under the Fair Housing Act-Question 7.

##### Frequently Asked Questions

*Can the housing provider ask about a person's disability or if they need an accommodation and/or modification?*

A housing provider cannot ask about a disability unless it is used for qualification to housing designed for people with disabilities or as a means to verify that the person meets the definition of a disability due to a requested reasonable accommodation or modification. A consumer should request the accommodation/ modification of the housing provider before obtaining on their own and should do so in writing (although it is not required to be writing).

There is no limit on the number of accommodations or modifications that can be requested and/or the number of times a consumer may request these needs. A housing provider cannot impose an accommodation or modification on a consumer who does not want one. A consumer is entitled to an accommodation/modification that affords equal opportunities to use and enjoy a dwelling, even if the accommodation/modification provided is not the one preferred by the consumer.

*Can the provider ask for proof of the disability or if they need the accommodation/modification?*

A housing provider can ask for verification of the disability and the need for the adaptation from a qualified medical professional or someone knowledgeable about the person’s disability (unless the

disability is obvious). The verification of the disability does not have to include a detailed statement of

what the disability is. A consumer does not have to provide and/or disclose medical records at this stage of the request process. A request for a reasonable accommodation and/or modification triggers an

affirmative duty on the part of the housing provider to exchange information with the consumer.

*For verifying a disability, who qualifies as a medical professional?*

Medical or licensed medical professionals means a person licensed by a public regulatory authority to provide medical care, therapy or counseling to persons with physical, mental or emotional disabilities,

including, but not limited to, doctors, physician assistants, psychiatrists, psychologists, or social workers.

Case law on the issue of questioning the credentials of a medical professional to submit verification of a disability and/or the need for a reasonable accommodation/modification is not completely developed.

However, if, for example, a tenant with a mental disability submits a request for an accommodation that is verified by a chiropractor, the housing provider could seek further verification of the need for the

[accommodation] and further verification that the tenant is a qualified person with a disability. A request for an accommodation and/or a modification, at the very least, puts the housing provider on notice that the need for an accommodation and/or a modification may exist. Denying the request without further

review of information could lead to a violation of fair housing laws.

7Ibid.

8Joint Statement of the U.S. Department of Housing and Urban Development and the U.S. Department of Justice on Reasonable Modifications Under the Fair Housing Act-Question 16.

Please note that fair housing laws do not require that verification of a disability and need of a reasonable accommodation/modification come from a medical professional. The HUD-DOJ Statement notes that “a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability may also provide verification of a disability.”9

Some housing providers are requiring that medical professionals certify that they will testify in court

before the provider will allow an accommodation or modification. A medical professional’s ability to testify in court should NOT be used as a means of approving or denying a reasonable accommodation or

modification.

##### Resources/Questions

See the “Joint Statement of the Department of Housing and Urban Development and the Department of Justice on Reasonable Accommodations Under the Fair Housing Act” and “Joint Statement of the

Department of Housing and Urban Development and the Department of Justice on Reasonable Modifications Under the Fair Housing Act” for additional guidance.

These materials are available by contacting WHA’s staff. This document was adapted from information provided by the King County Office of Civil Rights and the Fair Housing of the Dakotas. This document is not legal advice. For legal advice, please consult an attorney.

The owner/agent does not discriminate on the basis of disability status in the admission or access to, or treatment or employment in, its federally assisted programs and activities.

The person named below has been designated to coordinate compliance with the nondiscrimination requirements contained in the Department of Housing and Urban Development’s regulations implementing

Section 504 (24 CFR, part 8 dated June 2, 1988).

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9Joint Statement of the U.S. Department of Housing and Urban Development and the U.S. Department of Justice on Reasonable Accommodations Under the Fair Housing Act-Question 18.

##### How to Request a Reasonable Accommodation or Modification:

If the resident or a member of their household needs a reasonable accommodation or modification, they should submit a request to the Section 504 Coordinator. It is the responsibility of the resident to make any requests for an accommodation or modification, not the housing providers to assume what is needed. The housing provider should also approve all accommodations or modifications before they are made. It is recommended that the request be in writing and one should keep a copy for their records. However, a housing provider cannot require a request to be in writing, particularly if a disability limits the ability to do so. It is recommended for documentation purposes and one’s own protection that requests be put in

writing.

When making a reasonable accommodation request to management, fully describe the required accommodation. If there are resources that will make it easier or quicker for management to grant the request, include this information along with the request (for example, one may know of an inexpensive place to get written material put into Braille, or a good source for access signs).

If you are requesting permission to make a reasonable modification to the premises at your expense, be sure to provide the following with your request:

* fully describe the intended modification(s) if applicable
* provide assurance that required building permits will be obtained
* provide assurance that the modifications will be done in a professional manner
* agree to return the premises to their original state, unless the modification will not interfere with the next tenant's use and enjoyment of the premises
* (in some cases) agree to pay into an interest-bearing escrow account, over a

reasonable period, an amount of money not to exceed the cost of the restorations.

**The following is the suggested format for drafting a reasonable accommodation or modification request.**

1. Indicate that you qualify as a person with a disability as defined by civil rights laws (if this is so). It is not necessary to reveal the nature or severity of your disability. You may also include a note from your

medical professional verifying that you meet the definition of disability under law and explaining why this request is necessary. Be sure to keep a copy of anything you provide. Example:

*“I qualify as an individual with a disability as defined by the Federal Fair Housing Act Amendments of 1988.”*

1. State where you live and who is responsible for the building. Example:

*“I live at 805 West Street, Apt #2. This building is managed and owned by you, Jane Smith.”*

1. Describe the policy, rule, or architectural barrier that is problematic to you. Example:

*“There is not any reserved accessible parking in our building’s lot.”*

1. Describe how this policy or barrier interferes with your needs, rights, or enjoyment of your housing. Example:

*“I am unable to park in regular sized parking places because I need additional space to transfer from my car to a wheelchair.”*

1. In clear and concise language; describe the change you are seeking in the policy, rule or barrier. Example:

*“I am requesting that you designate a reserved parking space for my use next to the curb on the west side of the parking lot.”*

1. Cite the applicable law which protects your rights. For accommodations use:

*“Under the Federal Fair Housing Act Amendments, it is unlawful discrimination for a management company to deny a person with a disability a reasonable accommodation of building rules or*

*policies if such an accommodation may be necessary to afford such person full enjoyment of the premises…”*

For modifications, quote the law as follows:

*“Under the Federal Fair Housing Act Amendments, it is unlawful discrimination for a management company to deny a person with a disability a reasonable modification of existing premises occupied or to be occupied by such person if such modification may be necessary to afford such person full*

*enjoyment of the premises…”*

1. Ask for a written response within a certain amount of time. Example:

*“Please respond in writing to my request within 10 days of the date of this letter.”*

1. Sign and date the request. Remember to keep a copy of your request for your files as well as any documents you attached.
2. If the request is denied, contact WHA’s Staff to determine if your rights have been violated.

Please note that in the next section are forms and sample letters for your use in requesting a reasonable accommodation or modification if you would prefer to use them as well as further information.

##### Forms for Requesting Reasonable Accommodations and/or Modifications

Using these forms will help formulate the request and implement any follow up necessary:

[**A Request for a Reasonable Accommodation and/or Modification**](file:///S:\Administration\Forms%20Letters%20Brochures\Reasonable%20Accomodation%20Forms\WHA%20Reasonable%20%20Accommodation%20Request%20Form.docx)for the person making the request to

complete.

[**Reasonable Accommodation/Modification Approval**](file:///S:\Administration\Forms%20Letters%20Brochures\Reasonable%20Accomodation%20Forms\WHA%20Notice%20RAM%20Approval.docx)for the housing provider to complete.

[**Reasonable Accommodation/Modification Denial**](file:///S:\Administration\Forms%20Letters%20Brochures\Reasonable%20Accomodation%20Forms\WHA%20Notice%20RAM%20Denial.docx)for the housing provider to complete.

[**Live-In Aide Application**](file:///S:\Administration\Forms%20Letters%20Brochures\Reasonable%20Accomodation%20Forms\WHA%20Liveinaide%20Application.docx) for the person making the request to complete.

[**Live-In Aide Addendum**](file:///S:\Administration\Forms%20Letters%20Brochures\Reasonable%20Accomodation%20Forms\WHA%20Lease%20Addendum%20LiveinAideS8.docx) for the housing provider to complete.

[**Live-In Aide Denial**](file:///S:\Administration\Forms%20Letters%20Brochures\Reasonable%20Accomodation%20Forms\WHA%20Notice%20RAM%20DenialLiveInAid.docx) for the housing provider to complete.

[**Verification of Need for Live-in Aide/Caregiver**](file:///S:\Administration\Forms%20Letters%20Brochures\Reasonable%20Accomodation%20Forms\WHA%20Verif%20RAM%20Need%20LiveinAide.docx)for the health care provider, such as a doctor, nurse, therapist, or social worker, must complete and fax directly to the housing provider.

[**Notice Termination Tenancy Live-in Aide**](file:///S:\Administration\Forms%20Letters%20Brochures\Reasonable%20Accomodation%20Forms\WHA%20Notice%20TermTen%20LIA.docx) for the housing provider to complete.