

# **Appendix F:**

## **Reasonable Accommodation Policy**

### **I. Overview**

This policy is intended to expand on the PHA's Equal Opportunity Housing Plan (See Appendix C). It is not intended to, and does not change or enlarge the PHA's duty under any law, regulation or ordinance. Where in conflict, the applicable law, regulation or ordinance shall prevail.

This policy is incorporated into and made a part of the PHA's Public Housing Admission and Occupancy Policies and applies to the PHA's Public Housing Program.

### **II. Non-Discrimination**

The PHA shall not discriminate against an applicant, public housing resident because of disability, race, color, creed, religion, national origin or ancestry, familial status, sex, sexual preference, sexual or affectional orientation, public assistance status, marital status, age, or political affiliation. The PHA shall not solely, on the basis of a disability, deny benefits to an otherwise qualified person. The PHA shall give a qualified person with a disability, through a reasonable accommodation, an equal opportunity to participate in and benefit from its housing, aid, benefit or service.

The PHA shall give a qualified person with a disability, through a reasonable accommodation, housing, aid, a benefit or a service that is equally effective as that provided to others. The term "equally effective" is not intended to produce an identical result or level of achievement as a person without a disability but is intended to give a person with a disability an equal opportunity to obtain the same result or level of achievement.

It is the PHA's policy to fully comply with all applicable federal, state and local laws and ordinances, including the United States Housing Act of 1937, as amended, Rehabilitation Act of 1973, § 504 (29 U.S.C. § 794), Americans with Disabilities Act, 42 U.S.C. § 2101, Fair Housing Act, 42 U.S.C. § 3601, Minnesota Human Rights Act, Minn. Stat. § 363.

### **III. Definitions**

#### **A. A Person With A Disability Is One Who:**

1. Has a physical or mental impairment that substantially limits one or more major life activities;
2. Has a record of such an impairment; or
3. Is regarded as having such an impairment.

Specifically excluded from the definition of a disability are any exclusions enumerated in any applicable federal, state or local laws or ordinance, including the laws cited in Section II.

**B. Major Life Activity:**

Includes but is not limited to caring for one's self, doing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

**C. Mental Impairment:**

Includes mental retardation, organic brain syndrome, emotional or mental illness and specific learning disabilities.

**D. Physical Impairment:**

Includes cosmetic disfigurement, neurological, musculoskeletal, senses, respiratory, cardiovascular, reproductive, AIDS, HIV-positive, digestive, genitourinary, hernic, lymphatic and skin.

**E. A Qualified Person with a Disability:**

Is one who meets the essential eligibility requirements and who can achieve the purpose of the program or activity with or without modifications.

**F. Essential Eligibility Requirements:**

Include: stated eligibility requirements like income; compliance with selection criteria; timely payment of financial obligations; care of premises; no disqualifying criminal or drug activities; respect for the rights of others; explicit or implicit requirements inherent to the program or activity; and compliance with all obligations of occupancy with or without supportive services provided by persons other than the PHA.

**G. Reasonable Accommodation:**

Reasonable accommodation includes a transfer, a physical or structural change to the home or housing complex, or an exception to the PHA's rules, policies or procedures. In general, the PHA will accept the judgment of the person with the disability that an accommodation is needed. However, the PHA has the option to require the person with a disability to show the need for an accommodation.

The PHA may accept the judgment of the person with the disability that the specifically requested accommodation is the most appropriate. However, the PHA may investigate alternatives to the requested accommodation and/or alternative methods of providing the requested accommodation.

If more than one reasonable accommodation will satisfy the needs of the person with the disability, the PHA has the option to select the accommodation which is most convenient and cost effective for it. This includes the option to make an exception in procedure or policy or whether to make a physical or structural change.

The PHA shall make a reasonable accommodation for a physical or mental impairment of a qualified applicant or recipient unless it can show that the accommodation would impose an undue financial or administrative hardship or a fundamental change in the nature of the PHA's programs.

**H. Exclusions:**

A person with a disability may be excluded when a person's tenancy would pose a direct threat to others, the person's own health or safety, or would result in substantial physical damage to the property of others or if the person is not "otherwise qualified" for housing.

**I. Undue Hardship:**

Means significant difficulty or expense.

## **IV. Communication**

The PHA shall make reasonable accommodations to communicate with applicants, public housing residents, and members of the public. Reasonable accommodations may include using auxiliary aids such as interpreters for applicants, Braille materials, note takers or telecommunication devices for deaf persons. The PHA is not required to provide devices that are of a personal nature or that are prescribed or for personal use or study.

The PHA shall give consideration to the accommodation requested by the individual with the disability.

The PHA is not required to provide an accommodation that would fundamentally change the nature of the program or activity or result in an undue financial or administrative burden.

## **V. Application Process**

During the application process, the PHA may ask all applicants the same questions. An applicant is not required to talk about a disability, but may be asked to verify a disability if the applicant asks for a reasonable accommodation. The PHA shall not assume that a person has a disability.

An applicant may refuse to explain negative information because it may reveal the existence, nature or severity of a disability. The applicant has the right not to talk about the disability. However, the PHA retains the right to deny admission because of the negative information.

If an applicant requests a reasonable accommodation, the applicant has the burden to show that the accommodation is likely to enable the applicant to comply with the Dwelling Lease and that the applicant will accept supportive services or attend a self-help group or rehabilitation program if the applicant's history warrants. The PHA may make it a condition of an applicant's admission to accept such services or attend a self-help group or rehabilitation program.

Although the PHA may not amend the lease or program to require the person to accept

such services, it may deny admission if the rejection of the services may result in conduct that violates the lease or program rules. After admission, the PHA may not make it a condition of the tenancy that the tenant use the services or attend a program, but it may evict if the tenant violates the lease or program rules. For example, the PHA may not evict a tenant for not taking a medication, but may evict the tenant for conduct or behavior resulting in serious or repeated lease violations, regardless of the reason, including if such conduct or behavior is the result of not taking the medication.

## **VI. Physical Accessibility**

To the maximum extent practicable, the PHA's buildings will be physically accessible and usable by disabled persons where a physical accommodation is reasonable. A physical accommodation is reasonable if it does not cause an undue financial or administrative burden or fundamentally change the nature of the program. Since financial situations are not static, a cost base analysis should be done for each physical accommodation request.

Cost base factors include but are not limited to the type of accommodations, cost, the size of the PHA's overall housing business, number of units, type of units, budget, expenses and ability to recoup the cost.

Alterations in new construction shall comply with federal and state law and regulations.

If a physical accommodation is an undue financial or administrative burden, the PHA may provide for program access at a different accessible location, if it would not fundamentally change the nature of the program.

## **VII. Barrier-Free Units**

The PHA will comply with accessibility standards as provided in all applicable laws and regulations.

## **VIII. Accessible Units For Hearing And Sight-Impaired**

The PHA may modify units to reasonably accommodate residents with hearing or sight impairments when the modification does not create an undue financial or administrative burden or fundamentally alter the nature of the program or activity.

## **IX. Barrier-Free Common Areas And Non-Dwelling Areas**

It is the PHA's goal to achieve barrier free common areas and non-dwelling areas as follows:

- A.** Non-dwelling areas within a building which are not accessible will be modified to meet accessibility requirements when the building receives comprehensive modernization.
- B.** Non-dwelling areas which are not barrier free will be modified to meet accessibility requirements when the building undergoes comprehensive improvement.

## **X. Transfer To A Barrier-Free Unit**

To satisfy a reasonable accommodation, a resident may transfer to a barrier-free unit in priority as follows:

- A. First, the unit shall be offered to a resident of another unit in the same project or comparable projects under common control.
- B. Second, the resident will be offered a barrier free unit in any building, if available. If a unit is not available, the resident will be placed on a waiting list for a reasonable period of time.
- C. Third, the resident's existing unit may be modified to meet the needs of the resident, provided that the modifications do not create an undue financial or administrative burden or fundamentally alter the nature of the programs or activities.

## **XI. Disabled Applicants On The Waiting List**

A disabled applicant who is qualified and who needs a barrier-free unit, shall be offered a unit as follows:

- A. When the qualified applicant is at the top of the waiting list and a barrier-free unit is available and no tenant with a disability in the building needs such a unit.
- B. If a barrier-free unit becomes available and the applicant at the top of the waiting list does not need a barrier-free unit and no tenant in the building needs such a unit, the unit will be offered to the next qualified applicant needing a barrier-free unit.
- C. If a barrier-free unit becomes available and no applicant with a disability is on the waiting list, and no tenant in the building needs such a unit, the unit will be offered to the qualified applicant next on the waiting list. However, if the barrier-free unit is needed for an applicant or resident, the non-disabled resident in the unit shall vacate and move to another suitable and available unit.

## **XII. Program Accessibility**

The PHA will make reasonable accommodations for qualified persons with disabilities to have access and use its programs provided that the accommodation does not create an undue financial or administrative burden or fundamentally alter the nature of the program. Except when necessary to maintain the fundamental nature of the program, the PHA will not use eligibility criteria that adversely impact on disabled persons.

### **XIII. A Disabled Person's Compliance With The PHA'S Rules, Policies or Procedures**

A reasonable accommodation may include an exception to the PHA's rules, policies and procedures. If an applicant or recipient can show that the failure to comply with a rule, policy or procedure was due to a disability, the PHA may have to reinstate the person's status. This may include reinstating the person to a waiting list at an original spot or abandoning termination or eviction procedures. However, the accommodation is unreasonable if it imposes an undue financial or administrative hardship or fundamentally changes the nature of the program.

If an accommodation provided in the past has failed, the PHA is not required to offer the same accommodation unless the person can show new circumstances as to why the accommodation will likely work in the future.

An exception to the PHA's rules, procedures and policies does not require a lowering or a waiver of the essential requirements of a lease or program. If a tenant refuses services or another reasonable accommodation and conduct or behavior that violates the lease or program rules continues, the PHA may take the same action as it would with a person without a disability.

A person with a disability is required to show documentation of the disability and the need for the accommodation. Without such documentation, the PHA need not offer an accommodation.

### **XIV. Grievances or Complaints**

Grievances or complaints of applicants for, or residents of, public housing or applicants for shall be processed in accordance with the procedures adopted by the PHA in its Public Housing Admission and Occupancy Policies.