Assistance Animals and Fair Housing:
NAVIGATING REASONABLE ACCOMMODATIONS

Types of Assistance Animals

Assistance Animal

- Assistance animals are not pets.
- Trained or untrained animals that do work, perform tasks, provide assistance, and/or provide therapeutic emotional support for individuals with disabilities.
- Can be any common domestic household animal.
- Assists a person with a disability-related need.
- Covered under the Fair Housing Act.
- A reasonable accommodation must be granted where there is a nexus between a person's disability and the requested accommodation, i.e., the assistance that the animal provides to that person. The reasonable accommodation can be supported by a letter from a person knowledgeable about the individual's need for the assistance animal, such as a health care professional, but such a letter is not required. A reasonable accommodation may be made at any time.
- Unique animals are not necessarily excluded, but the requester may need to provide more information about why the animal that is not a common household animal is needed to meet the disability-related need.

Service Animal

- A type of Assistance Animal under the Act. Only type covered under the ADA.
- Trained to do work or perform a task directly related to a disability.

Disability Definition

Under the Fair Housing Act a person with a disability includes (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. Remember the term "major life activity" means those activities that are of central importance to daily life, which includes but is not limited to seeing, hearing, walking, breathing, performing manual tasks, caring for one's self, learning, and speaking.

Protections Under the Law

Housing providers may be subject to the requirements of several civil rights laws, including but not limited to the following:

- Fair Housing Act (FHA): The Fair Housing Act covers housing-related transactions and prohibits discrimination because of race, color, national origin, religion, sex (including gender identity and sexual orientation), familial status and *disability*.
- Americans with Disabilities Act (ADA): Titles II and III of the ADA provide protections for individuals with disabilities across a range of areas, including housing.
- Rehabilitation Act of 1973: Section 504 prohibits discrimination on the basis of disability in any program, service, or activity that receives federal financial assistance. In addition, housing providers have an obligation to provide *reasonable accommodations* to otherwise qualified persons with disabilities.

This material is based upon work supported, in whole or in part, by Federal award number C-17-TA-MA-0001awarded to Abt Associates Inc. by the U.S. Department of Housing and Urban Development. The substance and findings of the work are dedicated to the public. Neither the United States Government, nor any of its employees, makes any warranty, express or implied, or assumes any legal liability or responsibility for the accuracy, completeness, or usefulness of any information, apparatus, product, or process disclosed, or represents that its use would not infringe privately-owned rights. Reference herein to any individuals, agencies, companies, products, process, services, service by trade name, trademark, manufacturer, or otherwise does not constitute or imply an endorsement, recommendation, or favoring by the author(s), contributor(s), the U.S. Government or any agency thereof. Opinions contained herein are those of the author(s) and do not necessarily reflect the official position of, or a position that is endorsed by, HUD or any Federal agency.

Reasonable Accommodation Requests

Reasonable accommodations may be requested at any time by or on behalf of:

- A tenant or applicant with a disability;
- A household member with a disability;
- Any other person with a disability associated with tenant.

Any request may be made in writing or orally.

Denying a Request for a Reasonable Accommodation

A reasonable accommodation must be granted unless it is an undue financial and administrative burden for the housing provider, or it would entail a fundamental alteration to the nature of the housing provider's operations. Examples of requests that may be denied include:

- The request was not made by a person with a disability or on behalf of a person with a disability.
- There is no disability-related need for the accommodation requested.
- The specific animal in question poses a direct threat to the safety of others and there is evidence of such threat (e.g., testimony and video of the animal growling, barking, and lunging at multiple tenants in the lobby of the dwelling).

The housing provider should be prepared to justify their decision when denying a reasonable accommodation request. The provider must enter an interactive process before denying a request as unreasonable so as to discuss with the requestor whether any alternative accommodation would "effectively address" the individual's disability-related needs without fundamentally altering the provider's operations or causing an undue financial and administrative burden. The goal is to see if some sort of accommodation may still be achieved.

Filing Complaints with HUD

The Fair Housing Act (FHA) protects persons from discrimination because of race, color, national origin, religion, sex (including sexual orientation and gender identity), familial status (including households with a person under 18 years of age, seeking legal custody of such person, or pregnancy), and disability. HUD investigates such complaints and enforces the Fair Housing Act and other civil rights laws. We encourage you to reach out to your local HUD field office with questions about rights and responsibilities under the FHA.

People who believe their fair housing rights have been violated can file a complaint with HUD on its website. Complaints may be filed online, by email, by phone, or by mail. Persons filing the complaint should provide HUD with the following information:

- Their name, address, and additional contact information;
- The name and address of the person the claim is being filed against;
- The address or other identification of the property involved;
- A brief description of the alleged Fair Housing Act violation, or what happened that caused the complainant to believe there was a fair housing rights violation.

Housing Resources

Local governmental and non-profit agencies can be valuable resources to assist you with fair housing issues. We encourage you to explore your local agencies and build working relationships with them.

Some agencies we recommend include:

- HUD Field Office
- Fair Housing Initiatives Program (FHIP)
- Fair Housing Assistance Program (FHAP)

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

EQUAL HOUSING OPPORTUNITY

For additional guidance surrounding reasonable accommodation, reference the FHEO Notice -2020-01 and the HUD-DOJ Joint Statement on reasonable accommodations.

Visit **HUD.gov/fairhousing** or call **1-800-669-9777**

December 2022