

REASONABLE ACCOMMODATIONS & MODIFICATIONS FOR PEOPLE WITH DISABILITIES



REASONABLE ACCOMMODATION AND MODIFICATION POLICY

It is the policy of **MARTELLO GROUP** to provide reasonable accommodations to applicants and residents who have disabilities, and to permit residents with disabilities to make reasonable modifications.

MARTELLO GROUP will advise all applicants and residents of our willingness to provide accommodations by noting on application forms, rental agreements, and rules or regulations that “reasonable accommodations for people with disabilities will be provided upon request.”

DEFINITION OF DISABILITY

The preferred term is person with a disability; however, a few fair housing laws use the terms “handicap” and “disability” interchangeably.

Delaware Equal Accommodations Law defines a person with a disability to mean any person who satisfies one of the following:

- has a physical or mental impairment which substantially limits one or more major life activities
- has a record of such impairment
- is regarded as having such an impairment

Under fair housing laws, the definition of disability does not include:

- sex offenders
- current illegal drug users (however, fair housing laws do protect people who are recovering from substance abuse)

REASONABLE ACCOMMODATIONS AND REASONABLE MODIFICATIONS

An applicant or resident with a disability may need either a reasonable accommodation or a reasonable modification, or both, in order to have an equal opportunity to use and enjoy a dwelling (including public and common use spaces) or housing services. See Appendix B for a list of common accommodations and modifications.

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, including public and common use areas. Examples of reasonable accommodations include:

- providing rental forms in large print
- providing a reserved accessible parking space near a resident's rental
- allowing a resident to have a service animal, including an emotional support animal, in a "no pets" building
- permitting a resident who has developed mobility limitations to move to the ground floor.

A **reasonable modification** is a structural change made to a resident's living space or to the common areas of a community, which is necessary to enable a resident with a disability to have full use of and enjoyment of the housing. Reasonable modifications can include structural changes to interiors and exteriors of dwellings and to common and public use areas. Examples of reasonable modifications include:

- widening a doorway for a wheelchair user
- installing grab bars in a bathroom
- lowering kitchen cabinets to a height suitable for a wheelchair user
- adding a ramp and handrails to make a primary entrance accessible
- altering a walkway to provide access to a public or common use area.

Who Pays?

Accommodations – Fair housing laws require that the unit owner bears accommodation costs that do not amount to an undue financial and administrative burden. Most accommodations are no or low cost. Unit owners may not require people with disabilities to pay extra fees or deposits as a condition of receiving a reasonable accommodation.

Modifications – Generally, the resident will bear the expense of making reasonable structural modifications to a property. However, if the property receives federal funds, the housing provider (unit owner) usually pays, unless there is financial and administrative hardship.

Buildings subject to Fair Housing Act design and construction requirements – the housing provider (unit owner) may be responsible for making modifications that correct accessibility-related deficiencies. (applies only to housing with four or more units, constructed for first occupancy on or after March 13, 1991 – see Resources and Guidance)

Federally Funded Housing – If housing is federally funded, the housing provider (unit owner) is likely responsible for the costs of reasonable modifications.

RESTORATION

The unit owner may choose to keep modifications in place at the end of the tenancy, and in many cases, these changes enhance the general accessibility of the unit or common area.

At the end of tenancy, the resident is obligated, at the resident's expense, to restore interior dwelling areas to their previous condition only where it is reasonable to do so and where the unit owner requests the restoration. In general, if the modifications would not affect a subsequent resident's use or enjoyment of the premises, the unit owner will not require the outgoing resident to restore the premises to its prior state. The unit owner will not require that the resident restore modifications made to the exterior of a dwelling, such as ramps to the front door of the dwelling, or modifications made to laundry rooms or building entrances.

In certain limited and narrow circumstances, the unit owner may require that the resident deposit money into an interest bearing account to ensure that funds are available to restore the interior of a dwelling to its previous state. The resident is not responsible for expenses associated with reasonable wear and tear.

DENYING A REQUEST

If unsure about whether an accommodations request presents a financial or administrative undue burden, MARTELLO GROUP will consult with the Board of Directors before denying the request or conditioning approval on an alternative. If honoring the request appears very difficult, time-consuming or expensive, the unit owner will inform the requester of the concern and discuss how to identify easier, quicker or less expensive alternate accommodations that may work. In such situations, the unit owner will offer the requester the opportunity to amend the initial request. The unit owner may consult a local fair housing agency or other expert for technical assistance, accommodation ideas, funding resources, etc.

The unit owner will not deny a request for fear that an approval would encourage other people to request similar accommodation. Instead, a unit owner will assess each request individually.

The reasonableness of a particular accommodation or modification depends on various factors, including undue financial and administrative burden, fundamental alteration, or direct threat.

Undue Financial and Administrative Burden

A request is generally not reasonable if the accommodation would impose an undue financial and administrative burden on us. Unit owners will determine on a case by case basis whether a request would impose an undue burden, conferring with the Board of Directors and considering these relevant factors:

- the administrative cost or burden of the requested accommodation in comparison with the administrative cost of regular operation
- limits or availability of our overall resources
- the benefits that the accommodation would provide to the requester
- the availability of other, less expensive alternative accommodations that would effectively meet the requester's disability-related needs.

Note: If granting the request would interfere with compliance with historical preservation requirements or other regulatory restrictions, this may be considered in analyzing undue burden.

Fundamental Alteration in the Nature of our Business Operations

A request is generally not reasonable if the accommodation would fundamentally alter the nature of our business operations. If the requested accommodation or modification is not reasonable, the unit owner can use the interactive process to explore other alternatives that would address the person's need and that would be reasonable. Example: A resident with a disability requests housekeeping assistance. Such a request is not reasonable because housekeeping is outside our normal business services.

Direct Threat

A request is generally not reasonable if the accommodation or modification would constitute a direct threat to the health or safety of others or would result in substantial physical damage to the property of others, unless the threat can be eliminated or significantly reduced by reasonable accommodation.

To establish direct threat, we need recent, objective evidence of behavior that puts others at risk of harm. However, all requests for accommodation will be evaluated, even from someone who is considered a direct threat or who has caused substantial property damage. In such a situation, the individual would need to

present information that steps have been taken to prevent future harm. Example: A resident with a disability who is considered a direct threat may request a reasonable accommodation during the eviction process by presenting information that s/he has taken steps to prevent future harm. The unit owner has a duty to consider the reasonable accommodation request before taking action.

GUIDANCE FOR BOARD OF DIRECTORS

CONSIDERATION OF REQUESTS

The unit owner will consider all requests, whenever they are made.

- The unit owner will consider requests for accommodation or modification that are made by a person with a disability or by a representative making the request on behalf of and with the approval of the person with a disability.
- The unit owner encourages written requests for an accommodation or modification but will accept verbal requests.

The accommodation or modification must be for a person with a disability.

- If unit owner knows that someone who makes a request is disabled or if the disability is readily apparent, unit owner will not request written verification of the disability. (see “Verification and Approval” section below)
- The unit owner does not need to know the details of someone’s disability. The unit owner does not require the authorization for release of confidential medical records in order to verify a disability.

The need for accommodation or modification must be related to the disability.

- The resident’s request should describe the accommodation or modification and explain how it is related to the disability.
- The resident’s requested accommodation or modification must be necessary to meet the disability-related needs of the individual.

The requested accommodation or modification must be reasonable (see “Denying a Request”).

WHEN TO REQUEST VERIFICATION

The need to obtain verification documentation depends on the obviousness of the person’s disability, as well as the connection between the disability and the requested accommodation or modification.

- When the disability is obvious and the requested accommodation is clearly related to the disability, no verification is necessary. Such requests should be promptly documented and approved.
Example: a low vision resident asks for the tenancy rules in large print.

- If the disability is known, but the requested accommodation does not appear related to the disability, the unit owner will request only information necessary to evaluate the disability-related need for the accommodation. Example: a resident known to have a heart condition requests to live with a service animal.
- If neither the disability nor the relationship between the disability and accommodation is clear, the unit owner will request evidence of both. Example: Someone with no obvious disability asks for an accessible parking space – request that he document both that he has a disability and his disability-related need for the parking.

The unit owner will accept verification from a doctor or other medical professional, or other qualified third party who, in their professional capacity, has knowledge about the person's disability.

SUPPLEMENTAL INFORMATION

When additional information is necessary, the unit owner will notify the person seeking the accommodation what information is needed and offer a reasonable time to provide the information. If, after a reasonable period of time, the requester fails to provide the necessary information, the unit owner will base the decision on whether to grant the request on the available information.

If the unit owner has insufficient information, the unit owner may deny the request and inform the requester of the opportunity to submit another request later with more information.

ALTERNATIVE ACCOMMODATIONS

If the accommodation initially requested is determined to be an undue financial or administrative burden, the unit owner will engage in an interactive dialogue and process with the person with the disability to identify alternative accommodations that would fulfill the person's needs and be less financially or administratively burdensome.

- The unit owner can offer to move a tenant to a different unit he/she owns in lieu of allowing the resident to make a modification, but the unit owner cannot insist on the move.
- MARTELLO GROUP Board of Directors can require that the modification be done according to their design if it is to a common area, if their proposed design imposes no additional costs and still meets the resident's needs.
- If the unit owner wishes the resident to make a modification with more costly materials, in order to satisfy our aesthetic or unique design standards, the resident must agree only if the unit owner pays those additional costs. Consult the Board of Directors before offering or agreeing to a more costly alternative.

If the initial accommodation proposed by the tenant is determined to be unreasonable and more than one alternative is available, the unit owner will offer the accommodation that is less burdensome or expensive and meets the resident's needs.

Notes:

- The unit owner cannot require that the resident obtain additional insurance or increase the security deposit as a condition of allowing an accommodation or modification.
- For modifications, the unit owner can require that whoever does the work is reasonably able to do so in a professional manner and obtain all necessary building permits, if this is our normal business practice.
- The unit owner cannot insist that a particular contractor perform modifications, but the unit owner can require that the contractor be licensed, bonded, insured, etc., if this is our normal business practice.

INTERACTIVE PROCESS

When the unit owner receives a request, the unit owner will initiate an interactive, good faith dialogue with the resident who made the request to assess it and to reach a mutually acceptable solution. If the unit owner is uncertain about how to provide a requested accommodation, the unit owner will ask the resident to help identify community resources to assist in granting the accommodation. Remember, in most cases, the person with a disability knows best what accommodation or modification will meet his or her needs.

The unit owner will give the requester the following:

- A letter or email confirming that the unit owner has received the request.
- If needed, a letter or email asking for additional information (such as verification that the person has a disability, that the accommodation is disability-related, or both), with a suggested timeline for providing the information.
- A letter or email notifying when a request is approved, under consideration, denied, or granted in a form different from that requested by the person with a disability.
- The unit owner will document the interactive process, noting those situations in which additional information is necessary.

TIMELINESS

The unit owner will evaluate each request on a case-by-case basis, in a timely and professional manner.

The unit owner has an obligation to provide prompt responses to requests. If the unit owner delays responding to an accommodation request, after a reasonable amount of time the delay may be construed as a failure to provide a reasonable accommodation. A resident or applicant may then choose to seek legal assistance or to file a complaint with a fair housing agency.

CONFIDENTIALITY

Whether in casual conversation or during the interactive process, sometimes a person will reveal information about a disability, medical treatment, details about tasks a service animal does, or the support an emotional support animal provides. The unit owner must keep this information confidential and not share it, except:

- with MARTELLO GROUP Board members who need information to make a decision to grant or deny a reasonable accommodation request, or
- when disclosure required by law (for example, a court-issued subpoena).

It is not appropriate to discuss a resident's disability or accommodations with another resident. Example: A resident in a "no pets" community who wants a dog asks why another resident has one. The unit owner should not disclose that the resident has a disability or that the dog is a service animal. Instead, the unit owner can say "Fair housing laws require us to make exceptions to the 'no pets' rule under certain circumstances" and offer to accept other requests for an exception to the rule.

APPENDIX A - RESOURCES AND GUIDANCE

HUD/DOJ Joint Statement on Reasonable Accommodations

[2004-Reasonable-Accommodations-FAQ.pdf \(equalhousing.org\)](#)

[DOJ Policy Statement, Reasonable Accommodation \(justice.gov\)](#)

HUD/DOJ Joint Statement on Reasonable Modifications

[Joint Statement on Reasonable Modifications - March 5, 2008 \(equalhousing.org\)](#)

[Joint Statement on Reasonable Modifications - March 5, 2008 \(hud.gov\)](#)

Fair Housing Accessibility First www.fairhousingfirst.org

Toll-free Design and Construction Resource Center: 888- 341-7781

Sample Policy: Service Animals – www.kingcounty.gov/civilrights/SA.pdf

HUD Disability Rights and Resources

[Disability Main | HUD.gov / U.S. Department of Housing and Urban Development \(HUD\)](#)

HUD, “Disability Rights in Housing”

[Information for Disabled Persons/U.S. Department of Housing and Urban Development \(HUD\) | HUD.gov / U.S. Department of Housing and Urban Development \(HUD\)](#)

Equal Housing, “Insurance Policy Restrictions as a Defense for Refusals to Make a Reasonable Accommodation”

[Equal Housing – insurancepolicy.doc \(equalhousing.org\)](#)

Delaware Division of Human Relations

<https://humanandcivilrights.delaware.gov/fair-housing/>

Community Legal Aid Society, Inc., 302-575-0660, <http://www.declasi.org/>

APPENDIX B – COMMON DISABILITY ACCOMMODATIONS & MODIFICATIONS

Under fair housing laws, housing providers must accommodate the disability-related needs of applicants and residents who have disabilities. A reasonable accommodation is an adjustment in rules, procedures or services that gives a person an equal opportunity to use and enjoy their dwelling and common areas. A reasonable modification is a change in a dwelling or common areas (usually at the resident's expense) that is needed to live comfortably and safely. Do not ask applicants or residents if they have a disability, for details about the condition, or to see medical records. If unaware of the person's disability status or need for the accommodation/modification, it is okay to ask for third-party verification that the person has a disability and that the request will address the person's disability needs. *

- Large print documents for a resident with low vision
- Grab bars in the shower for a resident with mobility issues
- Wheelchair ramps for a resident who uses a wheelchair

APPENDIX C – ACCESSIBLE PARKING

Resident Parking – If parking is provided for residents, it is a reasonable accommodation to provide reserved accessible spaces for residents with disabilities. Parking requests require approval of the MARTELLO GROUP Board of Directors.

- The MARTELLO GROUP Board of Directors will use the standard accommodations process for accessible parking requests. If a resident has a state disabled parking permit, this is generally sufficient proof of the need for a reserved accessible parking space.
- Many people who need an accessible parking space don't need an extra-wide space with an access aisle – they often need only a regular-size parking space nearest to their front door or on the most accessible route to the front door. The Board of Directors will discuss specific parking needs with the resident.
- Even if parking spaces are not normally assigned, the Board of Directors will provide a reserved parking space to a resident with a disability.
- The MARTELLO GROUP Board of Directors will post a sign at the head of the parking space noting that the spot is reserved, so that others do not park there. The property manager will alert vendors that these spaces are off-limits.
- The Board of Directors will strictly enforce a resident's reserved accessible parking space and be prompt in responding to complaints when others park there.

Cooperative housing and condominiums – Sometimes a governing board or owners' group has only limited control over parking spaces. Boards should assist within their means to the person seeking a parking accommodation. If another resident owns the desired space, the two owners can negotiate a swap, with the Board of Directors approval.

APPENDIX D – SERVICE ANIMALS

When an applicant or resident who has a disability requests to live with a service animal, follow the usual accommodation process. It is a reasonable accommodation to allow residents to live with service animals that meet their disability-related needs.

- Service animals are not pets. A person with a disability uses a service animal as an auxiliary aid – similar to the use of a cane or wheelchair.
- Fair housing laws require that service animals be permitted despite "no pet" rules.
- While the most common service animals are dogs, they may include cats, birds, or other common domestic animals. "Companion" animals or emotional support animals are considered to be service animals, if they are required to meet a disability-related need.
- Service animals may be any breed, size or weight. We will not apply pet size or weight limitations to service animals.
- Service animals need no special license or visible identification. Some owners of service animals choose to put special collars or harnesses on their animals. If city or county laws require pet licenses for dogs and cats, MARTELLO GROUP Board of Directors can require licensing for service dogs or cats. In some cases, such licenses are free or discounted for service animals.
- Service animals need no "certification." A person may train his or her own service animal. Emotional support animals need no specialized training and do not need to perform tasks.
- The unit owner will not charge owners of service animals any pet deposits or fees. The unit owner can charge general cleaning or damage deposits, if all residents are similarly charged. The service animal's owner is responsible for the animal's care and liable for any damage the animal causes.
- Because service animals provide different types of assistance, in some cases a person with a disability may require more than one service animal.

For more information, see the website of the United States Department of Housing and Urban Development: https://www.hud.gov/program_offices/fair_housing_equal_opportunity/assistance_animals.

APPENDIX E – WHAT DISABILITY LAWS APPLY TO HOUSING?

Fair Housing Act, state and local fair housing laws

- Prohibit discrimination against people with disabilities and against those who associate with them.
- Require provision of "reasonable accommodations" as necessary to afford such person(s) equal opportunity to use and enjoy a dwelling.
- Require housing providers to allow residents with disabilities to make "reasonable modifications" to rentals and common areas.
- Require accessibility design and construction for covered multifamily housing.

Delaware Fair Housing Act

Section 504 of the Rehabilitation Act of 1973

Prohibits discrimination based on disability in any housing, program or activity receiving federal financial assistance. For more information, visit :

[Section 504 | HUD.gov / U.S. Department of Housing and Urban Development \(HUD\)](#)

Americans with Disabilities Act

- **Title II** prohibits discrimination based on disability in programs, services, and activities provided or made available by public entities (state and local public housing, housing authorities, housing assistance and housing referrals).
- **Title III** covers housing community areas that are open to the public (such as a rental office) or available for use by the public (such as a clubhouse rented to non-residents).

For more information, see this web page: [The Americans with Disabilities Act | ADA.gov](#)

APPENDIX F – FACT SHEET FOR APPLICANTS AND RESIDENTS WITH DISABILITIES

Reasonable accommodation and modification¹ policy guidelines for applicants and residents who have disabilities

MAKING A REQUEST

If you or a member of your household needs a reasonable accommodation or modification, please submit a request to the unit owner. If you are unable to make a request for yourself, another person (an advocacy organization or representative) can make the request on your behalf. The request does not need to disclose the nature of your disability.

You can make verbal requests for accommodations; however, unit owners recommend that you make requests in writing, because this will help to assess your request and to avoid misunderstandings about what you need.

In order for the unit owner to approve your request for reasonable accommodation, please make a reasonable accommodation request to the unit owner.

- The requested accommodation must be for someone with a disability.
- The requested accommodation must be directly related to the disability.
- The requested accommodation or modification must be reasonable.

In your request, please give the unit owner a full description of the required accommodation. If you know of resources that will make it easier or quicker for the unit owner to grant your request, include this information along with your request.

If you request permission to make a modification to the premises at your expense, please:

- Give a full description of the intended modification(s).
- Provide assurance that you will obtain building permits, if necessary.
- Provide assurance that the modifications will be done in a professional manner.

Please be aware that residents are responsible for the costs of their own modifications (except in housing that receives federal funding). If the modification you plan to make will not interfere with the next resident's use and enjoyment of the premises, it can remain there when you move out. In some cases, we will ask you to:

- Agree to return the premises to their original state.

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 interest on the account accrues to you).

Example: If you install grab bars in the bathtub with reinforcement in the wall, the unit owner may ask you to remove the grab bars when you move out, but the in-wall reinforcement can stay.

¹ Modifications can include modifications to individual units or to common areas accessible to all residents.

VERIFICATION

The unit owner may ask you to provide written verification that the request is for someone who has a disability. The unit owner may also ask you for verification that the accommodation or modification is necessary to give that person an equal opportunity to use and enjoy the housing community. If asked for verification, you can get it from your healthcare provider or any other qualified third party.

PROVISION OF ACCOMMODATIONS

The unit owner will work with you to process your request promptly. The unit owner may need to discuss your request with you. The unit owner generally grants requests for reasonable accommodations without cost to you. However, in most cases, you must pay for reasonable modifications.

The unit owner will give you the following:

- A letter confirming that the unit owner received your request.
- If needed, a letter requesting additional information (such as verification that the person has a disability, that the accommodation is disability-related, or both), with a suggested timeline for providing the information.
- A letter notifying you that your request has been approved, is under consideration, or has been denied.
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Sometimes the specific accommodation you request may be difficult, time-consuming or expensive to provide, and the unit owner may suggest alternate accommodations that might work just as well. If you believe the accommodation you have 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.

If the unit owner decides that he/she cannot fulfill your request because it poses an undue financial and administrative burden, fundamental alteration, or direct threat in our housing program, he/she will advise you in writing, and offer an opportunity for you to make a modified request.^a

RESOURCES / QUESTIONS

If you have any questions regarding your rights and responsibilities under the fair housing laws, contact a fair housing agency in your area listed in Appendix A. These agencies are able to provide technical assistance – they are a good information source for accommodation ideas, funding resources, access codes, etc.

For more information about your rights under fair housing laws, see [Disability Main | HUD.gov / U.S. Department of Housing and Urban Development \(HUD\)](#)