

Everett Housing Authority Reasonable Accommodation/Modification Policy and Procedures

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ATTACHMENTS:.....**Error! Bookmark not defined.**

 Request for Reasonable Accommodations/Modifications.....**Error! Bookmark not defined.**

 You can give us more information by [providing the attached Verification of Disability by Physician or Other Professional for Reasonable Accommodation/Modification Request form or by other information demonstrating the disability-related need for your request]..... **Error! Bookmark not defined.**

 Verification of Disability by Physician or Other Professional ..**Error! Bookmark not defined.**

 for Reasonable Accommodation/Modification Request.....**Error! Bookmark not defined.**

INTRODUCTION

This Reasonable Accommodation/Modification Policy and Procedures, comprised of Part A and Part B, sets forth the policy and procedures of the Everett Housing Authority (the “EHA”) regarding making reasonable accommodations and reasonable modifications for qualified applicants or residents with disabilities for participation in the EHA programs and activities.

A copy of this Reasonable Accommodation/Modification Policy and Procedures is posted in EHA main office lobby and on the EHA website, located at <http://www.everetthousingauthority.org>. Additionally, a copy of this Reasonable Accommodation/Modification Policy and Procedures may be obtained upon request by contacting EHA office at (617) 387-6389.

PART A: POLICY

SECTION 1. DEFINITIONS

1.1. The term “ADA” shall mean the Americans with Disabilities Act, as amended.

1.2. The term “FHA” shall mean the Fair Housing Act of 1968, as amended.

1.3. The term “*individual with a disability*”, shall mean:

- (i) A physical or mental impairment that substantially limits one or more of the major life activities of such individual;
- (ii) A record of such an impairment; or
- (iii) Being regarded as having such an impairment

This definition shall be interpreted as further detailed in 28 CFR § 35.108 (Title II ADA regulations).

1.4. The term “Policy” shall mean Part A of this Reasonable Accommodation/Modification Policy and Procedures, as adopted by the EHA Board, and as may be amended from time to time.

1.5. The term “Procedures” shall mean Part B of this Reasonable Accommodation/Modification Policy and Procedures, and as may be amended from time to time, in a manner consistent with the Policy, by the EHA’s Board.

1.6. The term “reasonable accommodation” as used herein means a change in the EHA’s rules, policies, practices, or services, that may be necessary to provide persons with disabilities an equal opportunity to participate in EHA programs, activities, and services, and/or to enjoy EHA dwellings or facilities.

1.7 The term “reasonable modification” as used herein means a physical change, such as to a dwelling unit, building, common or public area, etc., necessary to afford persons with disabilities an equal opportunity to use and enjoy the premises and/or to access programs, activities, and services.

SECTION 2. POLICY STATEMENT

The EHA is committed to ensuring that its policies and practices do not deny individuals with disabilities the equal opportunity to access, participate in, or benefit from, the EHA's housing services, programs, and facilities, nor otherwise discriminate against individuals with disabilities in connection with the operation of the EHA's housing services or programs. Therefore, if an individual with a disability requires a reasonable accommodation, i.e., a change to its rules, policies, practices, or services, or a reasonable modification, i.e., a physical alteration to a housing unit or public or common use area, the EHA will provide such a reasonable accommodation/modification, unless doing so would result in a fundamental alteration to the nature of the program or an undue financial and administrative burden. In such a case, the EHA will engage in an interactive process with the individual or person acting on the individual's behalf to make another accommodation/modification that would not result in a fundamental alteration or financial and administrative burden.

SECTION 3. PURPOSE

3.1 This Policy is intended to:

- (a) communicate the EHA's position regarding reasonable accommodations/modifications for persons with disabilities in connection with the EHA's housing programs services, and policies;
- (b) establish a procedural guide for implementing such Policy; and
- (c) comply with applicable federal, state and local laws to ensure accessibility for persons with disabilities to housing programs, benefits and services administered by the EHA.

SECTION 4. AUTHORITY

4.1 The requirements of this Policy are based upon the following statutes and regulations:

- (a) Section 504 of the Rehabilitation Act of 1973, as amended ("Section 504"), and implementing regulations at 24 CFR part 8, which prohibit discrimination on the basis of disability status by recipients of federal financial assistance;
- (b) The Fair Housing Act ("FHA"), as amended, which prohibits discrimination in the sale, rental and financing of dwellings on the basis of disability and other protected classes. Reasonable accommodation requirements are further clarified under The Joint Statement of the Department of Housing and Urban Development and the Department of Justice on Reasonable Accommodations under the Fair Housing Act¹;
- (c) Title II of the Americans With Disabilities Act ("ADA"), as amended, and

¹ https://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/joint_statement_ra.pdf .

implementing regulations at 28 CFR part 35, prohibit discrimination on the basis of disability status by public entities. Except as provided in §35.102(b), of 28 CFR Part 35, the ADA applies to all services, programs and activities provided or made available by public entities (State and local governments and agencies and instrumentalities thereof);

(d)Massachusetts General Laws chapter 151B, which prohibits discrimination against persons with disabilities and other protected classes in the renting, leasing, or sale of housing accommodations.

SECTION 5. MONITORING AND ENFORCEMENT

The EHA **Executive Director** is responsible for monitoring the EHA’s compliance with this Policy and enforcing the requirements under this Policy. Questions regarding this Policy, its interpretation or implementation should be made by contacting Roberta Correale, Assistant Director in writing, or by calling (617) 387-6389.

SECTION 6. GENERAL PRINCIPLES FOR PROVIDING REASONABLE ACCOMMODATIONS/MODIFICATIONS

6.1 Listed below are the general principles which provide a foundation for the Policy and which EHA staff should apply when responding to requests for reasonable accommodations/modifications within all EHA housing programs:

(a) It is presumed that the individual with a disability is usually knowledgeable of the appropriate types of, and methods for providing, reasonable accommodations/modifications needed when making a request. However, the EHA may offer equally effective alternatives to the requested accommodation, and/or alternative methods for providing the requested accommodation/modification.

(b) The procedure for evaluation and responding to requests for a reasonable accommodation/modification relies on a cooperative relationship between the EHA and the applicant/resident, or person acting on the applicant/resident’s behalf. The process is not adversarial. Instead, it is an interactive process, including for the purposes of addressing any needed clarifications as to what is being requested or information that was submitted, any further information that may be needed, and/or in some cases, to discuss alternative accommodations/modifications that may meet the individual’s needs.

(c) The Request for Reasonable Accommodations/Modifications form (“Request Form”) (a copy of which is attached to this Policy and Procedures as Attachment 2) is designed to assist the EHA and our applicants/residents. If an applicant/resident does not, or cannot use the Request Form, the EHA will still respond to the request for an accommodation/modification. The applicant/resident may also request assistance with the Request Form, or may request that the Request Form be provided in an equally effective format or means of communication through auxiliary aids and services.

(d) If the accommodation/modification is reasonable (see Procedure 3 below), the EHA will grant it.

(e) In accordance with Procedure 3 below, the EHA will grant the request for a reasonable accommodation/modification only to the extent that an undue financial and administrative burden or fundamental alteration to the nature of the program is not created thereby. A “fundamental alteration” is a modification that alters the essential nature of a provider's operations (e.g., a request for a service such as a transportation service that the EHA does not provide under its program). The EHA will make a determination of undue financial and administrative burden on a case-by-case basis, involving various factors, such as the cost of the reasonable accommodation/modification, the financial resources of the EHA, the benefits the accommodation/modification would provide to the requester, and the availability of alternative accommodations/modifications that would adequately meet the requester’s disability-related needs.

The EHA will also grant reasonable modifications in accordance applicable laws, including G.L. c. 151B § 4(7A) with respect to reasonable modifications that are at the expense of owners in publicly assisted housing. The EHA will also set-aside and consult resources for its state-aided public housing in accordance with PHN 2011-13.

(f) All written documents required by or as a result of this Policy must contain plain language and be in appropriate alternative formats in order to communicate information and decisions to the person requesting the accommodation/modification.

(g) Any in-person meetings with a person with mobility impairments will be held in an accessible location. Reasonable accommodations will also be made to meet the person’s disability-related needs.

SECTION 7. AMENDMENTS

7.1. The Policy may be amended only by resolution of the Board of the EHA.

7.2. The Procedures may be amended within the scope of the Policy by the Board of the EHA.

7.3. Legal Compliance. Any amendment to the Policy or Procedures shall be consistent with all applicable laws and regulations.

SECTION 8. STAFF TRAINING

The Equal Opportunity Officer/Reasonable Accommodation Coordinator/Executive Director will ensure that EHA staff are familiar with this Policy and Procedures and all applicable federal, state and local requirements regarding reasonable accommodations/modifications

PART B: PROCEDURES

PROCEDURE 1 - COMMUNICATION WITH APPLICANTS AND RESIDENTS

1. At the time of application, all applicants will be provided with the opportunity to request a reasonable accommodation/modification on the Common Housing Application for Massachusetts Public-Housing (CHAMP) or by paper application, or, upon the applicant's request, in another equally effective format. The Notice to All Applicants and Residents: Reasonable Accommodations and Modifications are available for Applicants and Residents with Mental and/or Physical Disabilities ("Notice") is attached to this Policy and Procedures as Attachment 1.
2. **EHA Residents seeking accommodations/modifications may call the EHA office at (617) 387-6389, TTY (800)545-1833x111.**
3. The EHA is responsible for informing all residents that a request may be submitted for reasonable accommodations/modifications for an individual with a disability. All residents will be provided the Notice and the Request Form when requesting a reasonable accommodation/modification. However, the Request Form cannot be required. A resident may otherwise submit the request in writing, orally, and at any time. Upon receiving the request, **the Assistant Director** will respond to the request within **thirty (30) business days**. If additional information or documentation is required, a written request should be issued to the resident by using the Request for Information or Verification Form ("Request for Information") (a copy of which is attached to this Policy and Procedures as Attachment 3). The Verification of Disability by Physician or Other Professional for Reasonable Accommodation/Modification Request form ("Verification for Reasonable Accommodation/Modification Request Form") is attached to this Policies and Procedures as Attachment 4).
4. The EHA will approve or deny the request as soon as possible, but not later than **thirty (30) days** after receiving all needed information and documentation from the resident. All decisions to grant or deny reasonable accommodations/modifications will be communicated in writing or if required, in an alternative format to communicate the decision to the applicant/resident. Exceptions to the thirty (30) day period for notification of the EHA's decision on the request should be provided to the resident in writing setting forth the reasons for the delay. A copy of each of the Letter Denying Request for Reasonable Accommodation/ Modification and the Letter Approving Request for Reasonable Accommodation/ Modification is attached to this Policy and Procedure as Attachment 5 and Attachment 6, respectively.

5. The EHA will maintain its offices written materials which summarize this Policy and highlights the Procedures for making a request for reasonable accommodation/modification.

PROCEDURE 2 - SEQUENCE FOR MAKING DECISIONS

STEP 1. Is the applicant/resident a qualified “individual with a disability”?

- (a) If NO, the EHA is not obligated to make a reasonable accommodation/modification; therefore, the EHA may deny the request.
- (b) IF YES, proceed to Step 2.
- (c) If more information is needed, the EHA will seek additional information as appropriate through the standard Request for Information letter, the standard Request for Meeting letter, and/or other equally effective method of communication (a copy of the Request for Meeting letter is attached to this Policy and Procedures as Attachment 7).

STEP 2. Is the requested accommodation/modification related to the disability?

- (a) If NO, the EHA is not obligated to make the accommodation/modification; therefore, the EHA may deny the request.
- (b) If YES, proceed to Step 3.
- (c) If more information is needed, the EHA will seek additional information as appropriate through the standard Request for Information letter, the standard Request for Meeting letter, and/or other equally effective method of communication

STEP 3. Is the requested accommodation reasonable? This determination will be made by following PROCEDURE 3 - GUIDELINES FOR DETERMINING REASONABLENESS, below.

- (a) If YES, the EHA will approve the request for reasonable accommodation/modification. A written description of the accommodation/modification will be prepared and included in the Letter Approving Request for Reasonable Accommodation/Modification.
- (b) If NO, the EHA may deny the request. Submit the denial using the Letter Denying Request for Reasonable Accommodation/Modification.
- (c) If more information is needed, the EHA will seek additional information as appropriate through the standard Request for Information letter, the standard Request for Meeting letter, and/or other equally effective method of communication.

PROCEDURE 3 -GUIDELINES FOR DETERMINING REASONABLENESS

1. In accordance with Section 6.1 of the Policy, the EHA will consider the requested method for providing reasonable accommodations/modifications for an individual with a disability. However, unless the disability-related need for an accommodation/modification is obvious or otherwise known to the EHA, the EHA may require the individual with a disability to provide further information to demonstrate the need for the requested accommodation to enable an equal opportunity to access, use, or enjoy the

housing program or EHA services and activities. Additionally, the EHA may offer equally effective alternatives to the requested accommodation/modification, and/or alternative methods for providing the requested accommodation through the interactive process.

2. Requests for reasonable accommodation/modification will be considered on a case-by-case basis. Decisions regarding reasonable accommodations/modifications will be made in compliance with all applicable laws, regulations, and requirements. Additionally, in those circumstances where the EHA deems that a proposed reasonable accommodation/modification would fundamentally alter the service, program, or activity, or would result in undue financial and administrative burdens, the EHA has the burden of proving such result(s).

3. The responsibility for the decision that a proposed reasonable accommodation/modification would result in such alteration or burdens shall rest with the Executive Director or his/her designee after considering all resources available for use in the funding and operation of the service, program, or activity, and must be accompanied by written statement of the reasons for reaching that conclusion. If an action would result in such an alteration or such burdens, the EHA shall propose any other action that will not result in or require a fundamental alteration or financial and administrative burden as part of the interactive process.

4. Direct Threat. Generally, an accommodation is not required if it would pose a “direct threat” to the health and safety of other individuals or would result in substantial physical damage to the property of others. The EHA’s assessment of “direct threat” will be individualized and based on reliable objective evidence (*e.g.*, current conduct, or a recent history of overt acts). The EHA’s assessment will consider: (1) the nature, duration, and severity of the risk of injury; (2) the probability that injury will actually occur; and (3) whether there are any reasonable accommodations that will eliminate the direct threat. In evaluating a recent history of overt acts, the EHA will take into account circumstances, such as intervening treatment or medication, that have eliminated the direct threat (*i.e.*, a significant risk of substantial harm).

5. Verification. The EHA may generally verify a person has a disability only to the extent necessary to determine that the person: is qualified for the housing for which they are applying; is entitled to any disability-related preference or benefit they may claim; or has a disability-related need for a requested accommodation/modification in order to have an equal opportunity to enjoy the housing and/or participate in or benefit from the EHA’s activities, programs, or services.

In response to reasonable accommodation/modification requests, the EHA may not require verification of disability if the disability is obvious or otherwise known. The EHA also may not ask what the disability is or require specific details as to the disability. The EHA may require documentation of the disability-related need (*i.e.*, information showing that there is a relationship or nexus between the requested accommodation/modification and the individual’s disability or effects of the disability), unless such need is obvious or

otherwise known. The EHA may not otherwise inquire into the nature or severity of the disability, require access to confidential records, or require specific types of evidence of disability or disability-related need.

6. Confidentiality. Information provided to the EHA in relation to a reasonable accommodation/modification request will be kept confidential and will not be shared with other persons unless they need the information to make or assess a decision to grant or deny a reasonable accommodation/modification request or unless disclosure is required by law.

7. Additional Procedures: Applicant Appeals and Tenant Grievances

When the EHA determines that an applicant may be disqualified for housing because of a lease violation at a prior tenancy or other disqualifying conduct, if the applicant shows that the lease violation or disqualifying conduct was due to a disability, then these facts shall be considered by the EHA as mitigating circumstances pursuant to [760 CMR 5.08\(2\)](#). Disability-related circumstances relating to a lease violation may also be presented by or on behalf of a resident with a disability as part of the grievance process pursuant to 760 CMR 6.03 & 6.08. For example, a tenant may demonstrate that a lease violation arose from a disability and that some circumstance has changed, and/or some reasonable accommodation could be provided, making the conduct unlikely to recur. Such circumstances may also be presented separately through a reasonable accommodation request (e.g., a request to forego eviction) independent of the grievance process. Tenants may also grieve EHA responses or inaction with respect to a reasonable accommodation/modification request through the grievance process pursuant to 760 CMR 6.03 & 6.08.