

PORTSMOUTH REDEVELOPMENT AND HOUSING AUTHORITY
REASONABLE ACCOMMODATION IN HOUSING POLICY & PROCEDURES

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INTRODUCTION

It is the Portsmouth Redevelopment and Housing Authority's (PRHA) policy to provide "reasonable accommodation" in housing for applicants and residents with disabilities¹ where reasonable accommodation is necessary to provide them with an equal opportunity to use and enjoy PRHA housing. This policy is in furtherance of the PRHA's goal of providing affordable housing to low income persons regardless of disability and in compliance with applicable federal, state, and local law. A "reasonable accommodation" is a modification or change the PRHA can make to its procedures and rules or to the person's apartment or to a common area which would assist an otherwise eligible person with a disability to benefit from PRHA housing, provided that the change does not pose an undue financial and administrative burden to the PRHA or result in a fundamental alteration of its program.

The Reasonable Accommodation in Housing Procedures (RAHP) outlined here apply to PRHA applicants and residents who are qualified "individuals with a disability" as set forth below. PRHA may require reliable documentation or verification of the disability, that the individual needs the accommodation, and that the accommodation is likely to be effective. PRHA will thoroughly and promptly consider any request for a reasonable accommodation, and will explain the basis for any denial to the requester. In the course of evaluating and responding to a reasonable accommodation request, PRHA will seek to engage in a process of dialogue and joint problem solving with PRHA applicants and residents.

These procedures are designed to inform and assist PRHA employees in identifying, determining and implementing reasonable accommodations for applicants and residents with disabilities where appropriate. They are available for information and review by PRHA residents and applicants upon request.

POLICY GUIDELINES

The following policy guidelines shall be in effect for assessing requests for reasonable accommodation by PRHA applicants and residents with disabilities. The guidelines are not intended to be an exhaustive compilation of rules or policies governing assessment by PRHA of requests for reasonable accommodation. If any conflicts exist or arise between these guidelines and guidance issued by the U.S. Department of Housing and Urban Development, or existing or future statutes, regulations, or other legal requirements, the PRHA shall follow the other requirements. The term "applicant" as used in these guidelines only refers to the individual requesting a reasonable accommodation, whether the person is applying for residency with PRHA or is already a PRHA resident.

¹ For purposes of these Reasonable Accommodation in Housing Procedures and the policy guidelines, the preferred term "disability" includes with its scope the term "handicap".

I. General Principles

- A. The PRHA will assume as an initial matter that the person requesting a reasonable accommodation is an expert with respect to his/her own disability and the accommodation that may be appropriate in relation to it. The PRHA will also assume as an initial matter that the information the person provides regarding his/her own needs is accurate and the method proposed for accommodating those needs is the most appropriate one to pursue. The PRHA may seek from the person documentation and/or other verification of the effect of the disability on the person and the method(s) proposed to accommodate it. The PRHA may also seek expert advice from medical or other professionals as to the needs of the person in question and alternative methods of accommodating those needs.
- B. Procedures for evaluating requests for reasonable accommodation and responding to those requests should take place in the context of a cooperative relationship between the PRHA and the applicant. The process is not an adversarial one.
- C. Reasonable accommodation shall be focused on the individual and designed to address each person's situation.
- D. In some cases, non-disabled residents may (incorrectly) perceive reasonable accommodations as conferring a special advantage on persons with disabilities. However, the PRHA will not base its decisions on how those decisions will be perceived, but rather on whether the requested accommodation will be effective in removing barriers that interfere with a person with a disability's access to and use of the housing program.

II. Procedures

- A. The PRHA shall develop and implement procedures through which individuals may request a reasonable accommodation. The process for making such requests shall be accessible to all persons. All communications that are a part of the process should be in plain language that the individual applicant can understand, in a format that is appropriate to meet the needs of the person with disabilities. If necessary, a format other than written documents should be used.

- B. The PRHA shall make available to all persons applying for residency with PRHA, or current PRHA residents, notice of the option to request a reasonable accommodation and a form for requesting a reasonable accommodation.
- C. Any meetings that must be held concerning an applicant's request for a reasonable accommodation shall be held in a location accessible to the applicant.
- D. Decisions on requests for reasonable accommodation shall be made within thirty (30) days after the date on which the application is complete. If PRHA requests that an applicant supply additional information that is reasonably necessary for PRHA to make a decision on the applicant's request for an accommodation (see Section III.C of these guidelines), the applicant should provide the requested information, or otherwise respond to PRHA's request, within a reasonable time period.
- E. If PRHA denies a request for a reasonable accommodation, it must explain to the applicant in writing the basis for its decision and reason why the request is being denied.
- F. If a staff member of PRHA decides to deny a request for reasonable accommodation, this decision shall be reviewed by at least one (1) supervisory official, who shall document, in writing, his or her approval or disapproval of the decision to deny the request.
- G. PRHA shall keep written records in resident or applicant files of its decisions to grant or deny any request for reasonable accommodation for a period of no less than three (3) years from the date of the request.
- H. PRHA shall, consistent with applicable laws, develop procedures for keeping information supplied by the applicant related to the nature or effects of the applicant's disability confidential and available only to persons within PRHA who are directly involved in decisions regarding the request for reasonable accommodation.

III. Assessment of Requests

- A. Unless PRHA can identify specific reasons for doing otherwise, PRHA should accept the judgment of an individual that an accommodation is needed, and that the requested

accommodation is reasonable, particularly if the nature of the disability is obvious. In determining whether reasons for denial exist, PRHA may obtain verification of the reasons advanced for an accommodation.

- B. Unless PRHA can identify specific reasons for doing otherwise, PRHA should accept the individual's judgment that the accommodation is related to disability.
- C. In assessing requests for reasonable accommodation, PRHA shall consider the factors set forth below, in making its determination of whether or not to grant the request. If at any stage in the assessment process PRHA determines that it requires additional information from the applicant to make its determination, PRHA shall so inform the applicant in writing. In appropriate situations, PRHA may request that an applicant provide documentation from a medical professional concerning the applicant's disability and the relationship of the requested accommodation to that disability. PRHA may include in its written communication to the applicant notice of a reasonable deadline for submission of the information to PRHA. Under no circumstances shall PRHA deny a request for reasonable accommodation based on a lack of sufficient information without first informing the applicant of its need for additional information and affording the applicant a reasonable opportunity to provide it.

IV. Determinative Factors:

- A. Whether the applicant is a qualified "individual with [a] disability".
- B. Whether the requested accommodation is related to the disability.
- C. Whether the requested accommodation is "reasonable". A request for an accommodation shall be considered to be "reasonable" as long as it does not create an undue financial hardship and administrative burden or constitute a fundamental alteration in a housing program,
 - 1. The determination of whether an accommodation constitutes an undue financial and administrative burden shall be made on a case by case basis, taking into

account the circumstances and resources available at the time of the decision.

2. If granting the requested accommodation would create an undue financial and administrative burden, PRHA shall comply with the request to the extent it can do so without undergoing undue burden(s) as described above.
3. If granting the requested accommodation would constitute a fundamental alteration in the housing program, PRHA may deny the request.
4. Each request for an accommodation should be considered as an individual request and should be granted if the particular accommodation requested meets the criteria outlined above and will not constitute a fundamental alteration in itself. The fact that granting an accommodation for one person could set a precedent, and that granting requests by a substantial number of other persons for the same accommodation could have a significant impact on the program shall not constitute a sufficient basis for a finding that a particular accommodation constitutes a fundamental alteration.

D. If there are a number of different accommodations that would satisfy the needs of the person with the disability, PRHA may select the option which is most convenient and cost effective, assuming there is no significant detrimental impact on the person requesting the accommodation that directly relates to her/his disability should PRHA select the alternative accommodation.

I. COMMUNICATIONS WITH DISABLED APPLICANTS OR RESIDENTS

1. COMMUNICATIONS

[1.1] PRHA shall take appropriate steps to assure effective communication with applicants and residents who are disabled, and shall furnish appropriate auxiliary aids (e.g. qualified sign language and oral interpreters, readers, use of taped materials) where necessary to facilitate communication with an individual who has a disability. Auxiliary aids shall be furnished in a timely manner. If an applicant or resident requests an extension of any deadline because of a delay in providing effective communication, such a request shall be considered. PRHA is not required to provide personal items such as hearing aids, magnifying eyeglasses, or readers for personal study.

[1.2] In determining what auxiliary aids are necessary, PRHA shall give primary consideration to the request of the individual with the disability. However, PRHA is not required to take any action which would result in a fundamental alteration in the nature of the housing program or constitute an undue financial and administrative burden to PRHA. See Section II, paragraphs [4.7] through [4.16] of the RAHP and Appendix 9, which discuss these factors.

[1.3] Documents intended for use by applicants or residents shall be made available promptly by PRHA in accessible formats for individuals who are visually impaired. PRHA shall also prepare such documents in clear and simple language, to the extent possible, to assist persons with learning and cognitive disabilities. If requested by persons with such disabilities, PRHA staff will explain written material verbally, and possibly more than once, and if necessary assist the individuals or obtain assistance for them in filling out any necessary forms.

[1.4] PRHA will take appropriate steps to assure that all persons with a disability who are eligible for a housing program are provided with the information necessary to participate in the program. PRHA will also take appropriate steps to assure that all persons with a disability can obtain information concerning the existence and location of accessible programs, services, activities and facilities.

[1.5] If an applicant or resident with a disability so requests, PRHA will permit an advocate,

friend or service provider to assist the person at any meetings, conferences or interviews. Upon request of an applicant or resident with a disability, PRHA will arrange to send a copy of any PRHA notice to an authorized third party representative as well as to the applicant or resident.

[1.6] Where PRHA communicates by telephone with applicants or tenants who are hearing challenged, it shall use telecommunication devices for deaf persons (TDD's) or other effective communications systems.

II. ADMISSION OF APPLICANTS

2. ADMISSIONS

[2.1] All prospective applicants for PRHA housing shall be informed at the Applicant Information Briefing Session of their right to request a reasonable accommodation for a disability from PRHA. A written Notice to Applicants with Disabilities Regarding Reasonable Accommodation, attached as Form 1, shall also be provided by the Occupancy Department staff to each prospective applicant at that time. A copy of this Notice shall be posted conspicuously at all times at the following locations:

- PRHA Occupancy Office located 1746 South Street, Portsmouth, VA
- Phoebus Square, King Square, Hope Village, Westbury and Holley Square Rental Offices located at 606 Phoebus Street, Portsmouth VA
- Effingham Plaza Rental Office located at 715 Madison Street, Portsmouth VA
- Hamilton Place Rental Office located at 1036 Patriot Way, Portsmouth VA
- Seaboard Square Rental Office located at 2847 Berkley Avenue, Portsmouth VA

[2.2] For prospective applicants who are visually, hearing or cognitively impaired, information relating to the right to request reasonable accommodation shall be provided in an alternative format which is accessible (for example, using PRHA staff to make an oral statement, having a third party representative explain the information).

[2.3] Where a prospective applicant is unable because of a disability to visit the PRHA Occupancy office to attend an Applicant Information Briefing Session and to obtain the necessary forms, he or she shall write to the Occupancy Department, explaining that because of the effect of the disability he or she is unable to attend in person. A Preliminary Application form and other pertinent application information will be provided to the individual as well as a Notice to Applicants with Disabilities Regarding Reasonable Accommodation. Form #1

[2.4] Individuals with a disability who attend an Applicant Information Briefing Session and believe that they require assistance in completing a Preliminary Application form may request such assistance from Occupancy Department staff at any point before, during or after the

Applicant Information Briefing Session. If necessary, PRHA shall provide a sign language interpreter at its expense, but the requesting individual shall provide the Occupancy Department with reasonable advance notice to arrange such services.

III. APPLICANT REQUEST FOR REASONABLE ACCOMMODATION

3. APPLICANT REQUEST

[3.1] Upon request made to the Occupancy Department or to the Site-based Rental Offices, any applicant shall be provided with a Request for Reasonable Accommodation Form #2. A copy of the PRHA's RAHP shall also be made available upon request.

[3.2] If an applicant who is an individual with a disability requires assistance in filling out the Request or if he or she needs to present the reasonable accommodation request in an alternative format, he or she shall contact the Occupancy Officer or his/her designee, and arrangements will be made to assist the applicant or to provide an alternative format. Alternative ways in which a reasonable accommodation request may be presented, where justified by a documented disability, shall include but are not limited to a personal interview or telephone discussion with an Occupancy Department staff person, for which a permanent record is prepared by the Occupancy Department staff person and confirmed by the applicant or his/her representative.

[3.3] The Request for Reasonable Accommodation Form #2 or alternative format request for reasonable accommodation shall be submitted to the Occupancy Officer for review and action as discussed below.

[3.4] Where an applicant is unable because of his or her disability to attend the standard personal interview at PRHA's Occupancy Department to determine final eligibility, and he or she submits a Request for Reasonable Accommodation to the Occupancy Department with supporting documentation from an appropriate source, the Occupancy Officer shall authorize the personal interview to take place at another location if suitable or by telephone or mail or other alternative means. Where an applicant with a disability with appropriate documentation requests accommodation as to the time or exact location of a personal interview at PRHA Occupancy Department, that request will be accommodated.

[3.5] At the screening interview, Occupancy Department staff shall give each interviewee a copy of the Notice to Applicants with Disabilities Regarding Reasonable Accommodation, Form #1.

[3.6] Provided that the following inquiries are made of all applicants, whether or not they have a disability, Occupancy Department staff may inquire into an applicant's ability to meet the requirements of the PRHA lease; into whether an applicant is a current illegal abuser of a controlled substance, abuses alcohol or has a criminal record; or into whether the applicant has a need for a specially designed apartment. If an applicant requests a specially designed apartment or applies for housing available only to persons with a disability, or for a preference or rent deduction available only to persons with a disability, Occupancy Department staff may ask whether he or she has a qualifying disability. If an applicant with a disability applies for a specially designed unit, Occupancy Department staff may ask the applicant to verify that his/her condition warrants the special features. In addition, if the applicant requests a reasonable accommodation, he or she may be asked to verify the disability and the need for the requested accommodation as set forth in the RAHP. With the exceptions stated above, Occupancy Department staff may not, at any interview or at any other time, inquire as to whether the applicant or any proposed household member or person associated with a household member has a disability nor may they inquire as to the nature or severity of a disability or regarding its treatment.

[3.7] If during the eligibility process, an applicant as a result of his or her disability is unable to provide requested information by the deadline given, or where the applicant provides information which is incomplete because of his or her disability, he or she should prepare a Request for Reasonable Accommodation for PRHA's consideration.

[3.8] If during the eligibility review process, PRHA receives unfavorable or negative information about an applicant who is an individual with a disability, before the Occupancy Officer issues a final decision on eligibility, he or she shall advise the applicant or his/her authorized representative of the applicant's right to submit any additional information or documentation the applicant would like PRHA to consider as evidence of a mitigating circumstance or as the basis for making a reasonable accommodation with respect to the negative or unfavorable information. A Letter Advising Applicants of Mitigating Circumstance and Reasonable Accommodation Option is attached as Form #3. The applicant or authorized representative shall respond as soon as possible but in any case no later than 30 days from the date of the letter. If the applicant or authorized representative wishes PRHA to consider a reasonable accommodation, he or she shall

submit a Request for Reasonable Accommodation Form #2 within the 30 day time period.

4. ASSESSMENT OF A REASONABLE ACCOMMODATION REQUEST

PART I: PROCESS

[4.1] When the Request for Reasonable Accommodation or alternative format request is received by the Occupancy Department, it shall be promptly entered in the Reasonable Accommodation log and reviewed by an Occupancy Specialist who will determine whether any further information is needed from the applicant and/or whether verification of the disability and the necessity of the requested accommodation is required from an appropriate source. Once the requested information and/or verification is obtained and reviewed, the Occupancy Specialist shall make his or her recommendation on denial or approval of the request to the Occupancy Officer.

[4.2] Where the Occupancy Specialist determines that additional information is needed from an applicant who has requested reasonable accommodation, he/she shall inform the applicant in writing as soon as practicable and provide a reasonable time period for the applicant's response but no less than 20 days from the date of the letter. PRHA's letter shall clearly identify the issue(s) concerning which further information is necessary; explain why more information is needed; and suggest examples of appropriate information sources. A sample Request for More Information or Verification Regarding Reasonable Accommodation Request is attached as Form #4.

[4.3] Where the Occupancy Specialist believes that a meeting with an applicant requesting a reasonable accommodation would be useful in evaluating the request, he/she shall inform the applicant in writing as soon as practicable and identify the issue(s) involved. An applicant with a disability who requests a reasonable accommodation may also ask for a meeting with an Occupancy Specialist if he or she feels it would be useful in evaluating the request. Any meetings held concerning a reasonable accommodation request shall be held in a location accessible to the applicant, and shall comply with paragraphs [1.1] and [1.5] above. A sample Letter For A Meeting About Reasonable Accommodation is attached as Form #5.

[4.4] The Occupancy Specialist may where necessary request in writing that an applicant provide documentation from a medical or rehabilitation professional or expert, or non-medical service agency whose function is to provide services to the disabled, which verifies that the applicant has

a qualifying disability and that the accommodation requested is necessary for an equal housing opportunity because of that disability. The Occupancy Specialist shall include a reasonable deadline for submission of that verification but not less than 20 days from the date of the letter. This information may be provided either directly by the verification source to PRHA or through the applicant to PRHA. The verification source shall be a person with appropriate credentials and current knowledge of the applicant's disability who is able to make an informed judgement based on that knowledge. If the applicant is unable to provide such a verification source, the Occupancy Specialist shall discuss alternative sources available to evaluate the applicant's needs. Where verification is sought from a medical or rehabilitation professional or expert or non-medical service agency whose function is to provide services to the disabled, Form #6 Certification of Need for Reasonable Accommodation or Special Unit shall be used. That form contains a line for signature by the applicant which indicates that he or she is authorizing verification to PRHA. If the applicant has not previously authorized PRHA to contact a specific verification source, the Occupancy Specialist shall include with his or her Request for More Information or Verification to the applicant Form #4, copies of the following: Certification of Need for Reasonable Accommodation or Special Unit; Form #7 PRHA's Letter to Verification Service for a Reasonable Accommodation Request; and a copy of the applicant's Form #2, Request for Reasonable Accommodation.

[4.5] Where an applicant has explicitly authorized PRHA to contact a specific professional or expert for verification in his or her Request for Reasonable Accommodation, Form #2 the Occupancy Specialist may send the Certification form directly to that verification source with PRHA's Letter to Verification Source, Form #7 and the applicant's Request for Reasonable Accommodation, Form #2 and request a response within a reasonable time period but not less than 20 days.

[4.6] All information submitted to PRHA by an applicant requesting a reasonable accommodation or by his or her verification sources which relates to the nature or effects of the applicant's disability shall be kept confidential and used solely to make a determination on the reasonable accommodation request or eligibility for PRHA's housing programs. See paragraphs [12.1] and 12.4] following.

PART II: CRITERIA

[4.7] A reasonable accommodation request may seek changes or adjustments to rules, policies, practices or procedures which are followed or prescribed by PRHA, or physical modifications to a person's prospective or current apartment or other part of the housing site, including assistive technology. A reasonable accommodation request may also seek the allowance of retroactive relief (e.g., reinstatement of an individual with a disability to the waiting list where he or she did not respond to an update notice for reasons related to the disability.)

[4.8] A request for reasonable accommodation shall be granted when the following three requirements are met:

- (a) the subject of the request is a qualified "individual with a disability", as set forth in further detail at Appendix 8, and
- (b) the requested accommodation is necessary, because of the disability, to provide an equal opportunity to use and enjoy the housing, and
- (c) the requested accommodation is reasonable. A request shall be considered "reasonable" if it does not create an undue financial and administrative burden or constitute a fundamental alteration in the nature of the housing program. Appendix 9 sets forth examples of requests that would likely be considered either reasonable or not reasonable on this basis.

See also the discussion at paragraphs [4.14] through [4.16] following.

[4.9] The factors which shall be considered in determining whether a requested accommodation would create an undue financial and administrative burden on PRHA are: 1) the nature of the accommodation; 2) the cost of the accommodation; 3) PRHA's financial and administrative resources; 4) the size of the housing program; 5) the type of unit or facilities involved; and 6) the possibility of recouping costs from another source.

[4.10] In determining whether a requested accommodation would cause a fundamental alteration in the nature of the housing program, PRHA shall consider whether the accommodation sought would require it to conduct activities which extend beyond the scope of its primary purpose, i.e. to operate public and assisted housing programs and to assure that residents and participants comply with their lease and program obligations, and the practical components necessary to

achieve that purpose. For example, a request for PRHA to provide child care, nursing services or other services not directly related to housing would constitute a fundamental change in the nature of the program PRHA provides.

[4.11] Unless PRHA can identify specific reasons for doing otherwise, it shall accept the judgment of an individual with a disability that a requested accommodation is appropriate for and related to his or her disability, is necessary for an equal housing opportunity, and is reasonable. In determining whether reason for denial exists, PRHA may obtain verification of the reasons advanced for the requested accommodation, and may also seek advice from qualified professionals on alternative methods of accommodating the individual's needs.

[4.12] The determination of whether a requested accommodation constitutes an undue financial and administrative burden or a fundamental alteration in the housing program shall be made on an individual case basis, taking into consideration the circumstances and resources available at the time of the decision. The fact that granting an accommodation for one person could set a precedent that other requesters might follow shall not constitute a sufficient basis for determining that a particular accommodation constitutes an undue financial and administrative burden or fundamental alteration in the program.

[4.13] If granting a requested accommodation would create an undue financial and administrative burden, PRHA shall comply with the request to the extent it can do so without undergoing undue burden(s).

[4.14] PRHA must establish that any alternative accommodation it proposes, if the requestor's proposed accommodation cannot be approved under paragraphs [4.7] through [4.16], is effective in removing the barriers to a disabled person's equal housing opportunity. If there are several different accommodations that would be effective in meeting the need of the disabled person, the PRHA may select the accommodation which is most convenient and cost effective, provided that there is no significant detrimental impact on the disabled person which directly relates to his/her disability.

[4.15] If a requested accommodation is unlikely to provide the disabled individual with an equal opportunity to use and enjoy the housing, PRHA need not grant that accommodation. See paragraph [5.3].

[4.16] If a disabled individual's requested accommodation would, based on objective evidence, pose a direct threat to the health or safety of others or result in substantial physical damage to the property of others, PRHA need not grant the accommodation. See paragraph [5.3] and Appendix A, Section (B).

5. DECISION ON AN APPLICANT'S REASONABLE ACCOMMODATION REQUEST

[5.1] The decision on an applicant's Request for Reasonable Accommodation Form #2 or alternative format request for reasonable accommodation shall be made by the Occupancy within 30 days after the date upon which the request is submitted, or if applicable within 30 days after the date upon which any additional information or verification reasonably necessary for his or her decision is provided.

[5.2] The Occupancy Officer shall not deny an applicant's reasonable accommodation request based on insufficient information or documentation where the Occupancy Department has not informed the applicant of the need for additional information or afforded the applicant a reasonable opportunity to provide it. Where a third party verification source fails to provide PRHA with requested information by the date given, the Occupancy officer or designee shall advise the applicant of that fact before taking adverse action based on insufficient information.

[5.3] Any denial of an applicant's request for reasonable accommodation shall explain to the applicant in writing the basis for the decision and the reason(s) why the request is being denied. The applicant shall also be informed of his or her right to request in writing an informal hearing on the decision by the Hearing Officer. A sample Denial of Request for Reasonable Accommodation form is attached as Form #8, and shall be used by the Occupancy Officer to communicate and document any denial.

[5.4] Any approval or conditional approval of an applicant's request for reasonable accommodation shall be communicated in writing to the applicant. It shall describe the accommodation that will be provided, including any terms, conditions and performance expectations that would be subject to the applicant's agreement, and shall indicate the date for implementation, which shall be as soon as practicable and except as explained in the approval notice no later than 30 days from the date of decision. The applicant shall also be informed that if he or she believes the accommodation approved will not meet his or her needs or will take too long to provide, an informal hearing may be requested by writing to the Occupancy Officer. A sample Reasonable Accommodation Approval Notice is attached as Form #9, and shall be used by the Occupancy Officer or as appropriate by the Property Manager under Section III,

paragraph [8.1].

[5.5] Where an applicant's eligibility for admission to PRHA depends on whether his or her request for reasonable accommodation will be granted, PRHA will not take final action on the eligibility determination until a final decision has been made on the reasonable accommodation request, provided that the applicant is not determined to be ineligible based on other grounds.

[5.6] Where a written request has been made for an informal hearing before the Hearing Officer or designee on an applicant's Request for Reasonable Accommodation, Form #2, the informal hearing will be scheduled within 30 days of the hearing review request and held within a total of 60 days. Following the informal hearing, a written decision will be issued in 20 days and forwarded to the Occupancy Officer. The Occupancy Officer will implement the final decision as soon as practicable and as a general rule no later than 30 days from receipt of the written decision, unless he or she advises the applicant in writing of the reason for the delay and provides an estimated implementation date.

III. RESIDENT REQUEST FOR REASONABLE ACCOMMODATION

6. RESIDENT REQUEST

[6.1] A copy of the Notice to Residents with Disabilities Regarding Reasonable Accommodations, attached as Form #10, shall be provided to each new resident upon occupancy. A copy of this Notice shall also be posted conspicuously at all times at each development office and at the Occupancy Office. In addition, the Recertification Package sent to each resident shall contain a copy of this Notice.

[6.2] For residents who are visually or cognitively impaired, information about the right to request reasonable accommodation shall be provided in an alternative format which is accessible.

[6.3] Upon request made to management staff, any resident shall be provided with the Request for Reasonable Accommodation Form #2. A copy of PRHA's RAHP shall also be available upon request. It is the responsibility of the resident to request a reasonable accommodation.

[6.4] If a resident requests a reasonable accommodation based on disability, the Property Manager reviewing that request may ask the resident to verify that a resident has a disability and the need for reasonable accommodation in housing because of the disability, by using the criteria described in paragraphs 4.7-4.16. Except as provided in those criteria, or where a resident applies for a rent deduction based on disability, PRHA management² and employees may not ask a resident whether he or she or a household member or person associated with the resident has a disability nor may they inquire as to the nature or severity of a disability or regarding its treatment. In addition, PRHA management staff and employees may not ask any question which would require the resident to disclose a specific medical condition or medical history.

[6.5] Where PRHA intends to take an adverse action against a resident (e.g., denial of an additional household member or an involuntary transfer, and a notice of adverse action is sent, PRHA shall inform the resident that if he or she has a disability, reasonable accommodation may be requested if such accommodation is necessary because of the disability to prevent the adverse action. At any private conference held concerning such adverse action, PRHA management shall discuss the right to request reasonable accommodation.

[6.6] A resident may request reasonable accommodation for a disability at any point during his/her tenancy. In addition, there is no limit on the number of reasonable accommodation requests a resident may make or that PRHA may be required to provide. As a general rule, all requests for reasonable accommodation by a resident shall be considered; however, management may require reliable documentation that the person needs the accommodation and that it is likely to be effective.

[6.7] If a resident requests a different accommodation because he/she believes that PRHA previously made an insufficient or inappropriate accommodation, that request shall be reviewed and decided as though it was an initial accommodation request.

[6.8] If a resident who is an individual with a disability requires assistance in filling out the Request Form #2 or if he/she needs to present the reasonable accommodation request in an alternative format, he/she shall contact the Property Manager and arrangements will be made to assist the resident or to provide an alternative format. See Section II, paragraph [3.2] above.

7. ASSESSMENT OF A RESIDENT REASONABLE ACCOMMODATION REQUEST

[7.1] The Request for Reasonable Accommodation, Form #2 or alternative format request shall be submitted to the development management office for prompt entry in the Reasonable Accommodation log and review by the Property Manager, who shall determine whether any further information is needed from the resident and/or whether verification of the disability and the necessity of the requested accommodation is required from an appropriate source. The Request for Reasonable Accommodation, Form #2 shall be forwarded to the Asset Manager and Deputy Executive Director for review and tracking purposes.

² The term "PRHA management" used in the RAHP is intended to also include private or resident management companies performing services under contract with PRHA.

[7.2] Where the Property Manager determines that additional information is needed from a resident who has requested reasonable accommodation, or that verification or documentation is required from a medical or rehabilitation professional or expert or non-medical service agency whose function is to provide services to the disabled, or that a meeting with the resident would be useful in evaluating the request, he or she shall follow the procedures set forth at Section II, paragraphs [4.2] through [4.6] above.

[7.3] In assessing a resident's reasonable accommodation request, PRHA management shall follow the same criteria set forth at Section II, paragraphs [4.7] through [4.16] above.

8. DECISION ON A RESIDENT'S REASONABLE ACCOMMODATION REQUEST

[8.1] The Property Manager shall determine whether to approve a resident's request for reasonable accommodation or alternative format request within 10 days after the date upon which the request is submitted, or if applicable within 10 days after the date upon which any additional information or verification reasonably necessary for his or her decision is provided. If the Property Manager decides to approve the request, he or she shall follow the procedure set forth at Section II, paragraph [5.4] above.

[8.2] If the Housing Manager proposes to deny the request, he or she shall make the recommendation in writing to the Regional Property Manager, who shall have 10 additional days to review all pertinent information and make a determination on the denial. If the Asset Manager decides to approve the request, he or she shall issue an approval notice as set forth above. However, if the Asset Manager proposes to deny the request, he or she shall within 3 additional business days request the resident in writing to attend an informal meeting at which the reasonable accommodation request will be discussed and an attempt will be made to informally resolve the request if appropriate.

[8.3] The informal meeting shall be held within 7 business days from the date of the letter to the resident, unless a later date is requested by the resident. The participants shall be the resident; any representative he or she requests to attend; the Asset Manager; and if the Asset Manager requests, the Property Manager. If an informal disposition is proposed at the meeting, it shall be explained to the resident by the Asset Manager, with the supporting reasons. If an agreement is reached at the meeting, it shall be reduced to writing, signed by the parties, and a copy sent to the resident.

[8.4] If during the informal meeting with the resident, the Asset Manager determines that additional information is needed from the resident or that verification or documentation regarding the request is required from a medical or rehabilitation professional or expert or non-medical service agency whose function is to provide services to the disabled, the Asset Manager shall follow the procedure set forth at Section II, paragraphs [4.2], [4.4], [4.5] and [4.6] above.

[8.5] Immediately following the meeting, if no agreement or other resolution has been reached and provided that no further information has been deemed necessary, the Asset Manager shall issue in writing his or her decision on the reasonable accommodation request. If the request is denied, the Asset Manager shall explain the basis and reasons for the denial, and shall inform the resident of the right to request a grievance hearing on the denial. The Asset Manager shall use the Denial of Request for Reasonable Accommodation Form #8, and shall also include a Grievance Hearing Request Form.

[8.6] No reasonable accommodation request by a resident may be denied based on insufficient information or documentation where neither the Asset Manager nor the Property Manager has informed the resident of the need for additional information or documentation or afforded the resident a reasonable opportunity to provide it. Where a third party verification source fails to provide PRHA with requested information by the date given, the Asset Manager or Property Manager shall advise the resident of that fact before taking adverse action based on insufficient information.

[8.7] If a resident who has been denied a reasonable accommodation by the Asset Manager wishes to appeal to the Grievance Panel, he or she shall follow the time requirements and process for requesting a grievance hearing set forth in the PRHA Tenant Grievance Procedure. Where a grievance hearing is requested, the procedures governing the scheduling of that hearing, the Hearing Officer and the hearing and the decision shall be as provided in the Grievance Procedure. The procedures regarding an appeal from the Hearing Officer decision to the PRHA Director or Housing Services or designee shall also apply. See also Section V – Other Issues – Grievance.

[8.8] PRHA shall in writing inform any resident whose reasonable accommodation request has been denied or who disagrees with an approval notice of his or her right to file a fair housing complaint, whether or not the PRHA grievance procedure is pursued, with the following administrative agencies or in court:

Department of Housing and Urban Development (HUD) 600 East Broad Street, Richmond VA 23219-4920, Telephone: 1 (800) 842-2610 or TDD # (804) 771-2038.

9. REASONABLE ACCOMMODATION FOR LEASE VIOLATIONS AND EVICTIONS

[9.1] Where a resident with a disability engages in a lease violation, PRHA management shall approach the situation as with any other resident except that if the resident requests reasonable accommodation in order to comply with the lease, the request shall be considered. All documents sent by PRHA regarding action on a lease violation shall identify the lease violation and inform the resident of his/her right to request reasonable accommodation if necessary to comply with the lease. At any private conference with a resident on a lease violation, PRHA management shall discuss the right to request reasonable accommodation, and have the form readily available.

[9.2] Although PRHA management must make reasonable accommodation to enable a person with a disability to comply with the requirements of his/her lease, an accommodation is not reasonable if it would require a fundamental alteration in the nature of the program or would impose undue financial and administrative burdens on PRHA. See Section II, paragraph [4.10] above for considerations on a whether a requested accommodation would fundamentally alter the nature of the housing program. In addition, the provision of reasonable accommodation shall not require the lowering or waiving of essential eligibility requirements for the housing program.

[9.3] A resident with a disability has the right to refuse reasonable accommodation. However, if a resident who has refused reasonable accommodation engages in lease violating behavior, PRHA management may enforce the lease requirements and seek appropriate remedies including eviction as with any other resident.

[9.4] If a disabled resident who has committed a lease violation requests a reasonable accommodation in order to comply with his/her lease, PRHA management must in considering the request, determine whether it is reasonable to believe that the problem is not likely to recur with the accommodation sought. For this purpose, management may request the resident to provide appropriate information, documentation or verification within a reasonable time period. If management believes that, based on objective information, the accommodation is not likely to solve the lease problem, the accommodation may be denied.

[9.5] Where a resident faces eviction proceedings because of a lease violation(s) and the lease violation(s) is related to a disability, he or she shall be advised by management of the right to

request reasonable accommodation. Both the Notice of Private Conference and Notice of Termination/Notice to Quit sent to residents shall set forth the basis for the proposed lease termination, and shall state that if the resident or a household member has a disability, he or she has the right to request reasonable accommodation to enable compliance with the lease on forms available at the development management office.

[9.6] When a resident with a disability requests reasonable accommodation prior to service of the summons and complaint in an eviction proceeding,³ PRHA management shall consider the request and may ask the resident given the circumstances of the case to provide appropriate information, documentation or verification, within a reasonable time period, that the accommodation is likely to enable the resident to comply with the terms of the lease. PRHA management may also request evidence that the resident is willing to follow any proposed plan agreed to by the resident in order to be lease compliant. If PRHA management believes, based on objective information, that the accommodation will not enable the resident to comply with the terms of the lease or that the accommodation would result in a fundamental alteration of the housing program or impose an undue financial and administrative burden on PRHA, it may deny the accommodation and proceed with the eviction in accordance with established procedures. For example, if a resident with a psychological disorder resulting in continuing lease violations has previously committed to PRHA that he/she would follow a treatment plan designed to eliminate such violations, but the resident has failed to do so and has provided no credible reason why he/she would now follow a plan, and his/her lease violations have continued, there would be an objective basis to proceed with the eviction.

[9.7] If a resident with a disability engages in persistent lease violating behavior and refuses requests to discuss the problem or possible reasonable accommodation, PRHA management shall proceed as it would with any other resident under similar circumstances. However, any eviction notices sent shall include information regarding the right to request reasonable accommodation that would enable the resident to comply with the lease.

10. REASONABLE ACCOMMODATION IN TRANSFER REQUESTS

[10.1] A resident with a disability who requests a transfer to another PRHA unit or development on reasonable accommodation grounds shall prepare a Request for Reasonable Accommodation Form #2 as well as a Transfer Request Form and submit both to the local development management office. Both forms shall be processed together following the procedures for transfer requests set forth in the PRHA's Transfer Policy. The decision made by the Occupancy Department, after recommendation by the Property Manager and presentation to the Director of Housing Services or his/her designee, shall determine the disposition of the requests.

[10.2] If a resident with a disability requesting a transfer does not satisfy the PRHA's eligibility requirements for a transfer, he/she may as part of his or her Request for Reasonable Accommodation Form #2 request an exemption or waiver of any of those requirements pursuant to the Admissions and Continued Occupancy Plan or any successor plan. The Occupancy Officer and PRHA Director of Housing Services or designee shall consider that request within a reasonable time period, and the Occupancy Officer shall promptly advise the resident in writing whether the waiver will be granted. If the waiver is denied, the resident shall be informed that he/she may exercise the appeal rights outlined in the PRHA RAHP for denials of a resident's reasonable accommodation request.

[10.3] If a resident with a disability requesting a transfer needs assistance in filling out the Transfer Request Form or the Request for Reasonable Accommodation form or both, or if he or she needs to present those requests in an alternative format, he or she shall contact the Property Manager and arrangements shall be made to assist the resident or to provide an alternative format. See Section II, paragraph [3.2] above.

³

If the request for reasonable accommodation is made after service of the summons and complaint, the PRHA will deal with the request in the context of the eviction proceeding.

[10.4] If a resident with a disability requests a transfer to a unit designed to accommodate a particular disability (e.g. a wheelchair accessible apartment), he/she may be questioned by PRHA staff reviewing the request with regard to the qualifying disability and as to whether the requested accommodation is necessary because of the disability.

[10.5] Where a resident with a disability requests a transfer on reasonable accommodation grounds, it is his or her responsibility to provide PRHA with appropriate information or documentation which supports the basis for the requested transfer, the level of transfer priority (“emergency” or “substantial cause”), and any “good cause” need to be assigned to a particular development, apartment type or part of the city. In addressing his/her need for reasonable accommodation, the resident shall provide verification or documentation from a medical or rehabilitation professional or expert that he/she is an individual with a disability and that the transfer is necessary for an equal housing opportunity because of that disability. The verification source shall be a person with current knowledge of the resident’s disability who is able to make an informed judgment based on that knowledge.

[10.6] In reviewing a resident’s reasonable accommodation transfer request, the Occupancy Officer may determine that additional verification or documentation is needed from a medical or rehabilitation professional or expert. In that case, the Occupancy Officer shall send a Certification of Need For Reasonable Accommodation or Special Unit Form #6 to a medical or rehabilitation professional or expert who is identified by the resident or was listed in his/her Request for Reasonable Accommodation, Form #2 along with a copy of that Request and the PRHA Letter to Verification Source For A Reasonable Accommodation Request Form #7. The Certification of Need Form #6 shall contain a signature by the resident which indicates that he/she is authorizing verification to PRHA from the professional or expert. The Occupancy Officer shall request a response from the source within a reasonable time period, but not less than 20 days.

[10.7] Where any additional information is sought on a reasonable accommodation transfer request from the Property Manager or the Occupancy Department, that information shall be provided within 14 days of the request except for good cause.

[10.8] Any resident who has requested a reasonable accommodation transfer may contact the Occupancy Officer for a status inquiry, and the Officer shall reply within 2 business days. The Officer shall also notify the resident, the appropriate Property Manager, the Asset Manager, the Director of Housing Services and the Deputy Executive Director of the decision on each reasonable accommodation transfer request within 2 business days, and provide them with a copy of the decision.

[10.9] All information submitted to PRHA by a resident requesting a reasonable accommodation transfer or by his or her verification sources which relates to the nature or effect of the resident's disability shall be kept confidential and used solely to make a determination on the reasonable accommodation request.

[10.10] The Occupancy Officer shall make a decision on a resident's reasonable accommodation transfer request within 30 days after the request is submitted and any additional information or verification reasonably necessary for the decision is provided. The Occupancy Officer may not deny a reasonable accommodation transfer request based on insufficient information or documentation where PRHA has not informed the resident of its need for additional information or documentation or has not afforded the resident a reasonable opportunity to provide it.

[10.11] All decisions made on a reasonable accommodation transfer request by the Occupancy Officer shall be in writing and shall state the basis for the decision; shall advise the resident of his or her right to appeal under the PRHA Grievance Procedure; and shall state that the resident also has the right to file a fair housing complaint with HUD or in court.

[10.12] Where a resident requesting a reasonable accommodation transfer is disapproved for a transfer or for a "good cause" assignment or where the resident wants to appeal the level of transfer priority for which he/she has been approved, the resident may appeal the decision in accordance with the PRHA's Tenant Grievance Procedure.

IV. GENERAL PROVISIONS

11. THIRD PARTY REPRESENTATIVES

[11.1] Any individual with a disability who makes a reasonable accommodation request may authorize a third party representative to act on his or her behalf in dealing with PRHA or with verification services on the request.

[11.2] Upon presentation of appropriate authorization, a third party representative may fill out and sign the Request for Reasonable Accommodation form for an individual with a disability.

[11.3] Upon submission of a written request by an individual with a disability who has asked for reasonable accommodation, an authorized third party representative shall be given access to all documents in the individual's PRHA files which relate to his or her reasonable accommodation request.

12. PRHA REASONABLE ACCOMMODATION COORDINATOR

[12.1] PRHA shall designate an individual within the Executive Department as the PRHA Reasonable Accommodation Coordinator, who shall report directly to the Deputy Executive Director.

[12.2] PRHA shall notify all applicants and residents on an initial and continuing basis that there is a Reasonable Accommodation Coordinator and shall identify the Department, address and the telephone number (including TDD number). Methods of notification may include periodic posting of notices, distribution of written communications, and statements made in general information or resident publications. This notice shall also be made available in accessible form to visually and hearing impaired persons.

[12.3] The Reasonable Accommodation Coordinator shall be responsible for overseeing the implementation and operation of the PRHA'S RAHP, and for coordinating all PRHA efforts to comply with the various provisions of federal, state and local law governing reasonable accommodation in housing. Where the Coordinator believes that certain corrective action is necessary, he or she shall directly advise the PRHA official involved or if deemed appropriate shall make a recommendation to the Deputy Executive Director who will in turn advise the official. The Reasonable Accommodation Coordinator shall be available to PRHA applicants and residents as well as staff to answer questions and to deal with issues regarding reasonable accommodation requests, although he or she is not the decision maker on a reasonable accommodation request.

[12.4] The Reasonable Accommodation Coordinator may receive complaints or other reports of non-compliance with the RAHP from PRHA residents, applicants, management staff or interested persons outside PRHA and shall investigate such complaints promptly. Following such investigation, the Coordinator shall report his or her findings and any remedial action determined to be necessary to the Deputy Executive Director, who will have the authority to undertake further investigation and to recommend remedial action to the PRHA Executive Director. This procedure shall be independent of the appeal procedures set forth in the RAHP for PRHA residents or applicants who have requested reasonable accommodation for disability and have

been denied.

[12.5] The Reasonable Accommodation Coordinator shall be available to consult as needed and to provide advice to any PRHA official making a determination on a reasonable accommodation request.

[12.6] Any PRHA resident or applicant who has submitted a request for reasonable accommodation which does not involve a transfer may contact the Reasonable Accommodation Coordinator for a status inquiry and the Reasonable Accommodation Coordinator shall reply within five business days.

[12.7] The Reasonable Accommodation Coordinator shall have access to all files containing information on a reasonable accommodation request. He or she shall also be responsible for auditing the reasonable accommodation logs maintained by the PRHA Occupancy Department and by each development management office, as set forth at paragraphs [14.2] and [14.3], on a semi-annual basis.

13. CONFIDENTIALITY

[13.1] Except as provided at paragraph [13.4] all information submitted to PRHA by a person requesting reasonable accommodation on the basis of disability or by any verification source which relate to the nature or effects of the disability shall be kept confidential and used solely to make a determination on the reasonable accommodation request. The protection of confidentiality shall extend to all information contained within an individual files of applicants and residents, the Occupancy Department and development management office reasonable accommodation logs, and all other PRHA files which relates to the nature or effects of an individual's disability. This information may not be revealed to other residents or to another housing provider who calls for a reference or to any PRHA staff not involved in evaluating the reasonable accommodation request. This requirement does not, however, prevent PRHA employees from stating to another housing provider whether the person has complied with PRHA lease obligations.

[13.2] All decisions made by the PRHA on a reasonable accommodation request shall be kept confidential except insofar as disclosure is necessary to implement an approved accommodation or to comply with the review and appeal procedures set forth in the RAHP.

[13.3] Federal, state, and local civil rights enforcement agencies shall be provided with such information and documents as is authorized by law.

[13.4] Individuals requesting a reasonable accommodation based on disability shall upon request to the PRHA be entitled to copies of all documents in their PRHA files which relate to their reasonable accommodation request, in accordance with applicable law. In addition, upon written request of an individual with a disability access to such documents shall be provided to his or her authorized third party representative. (See 11.3)

14. NON-RETALIATION

[14.1] PRHA shall not discriminate or take any retaliatory action against a person who has requested a reasonable accommodation on the basis of a disability, or who has assisted or encouraged any other person to request such an accommodation.

[14.2] PRHA shall not discriminate or take any retaliatory action against a person who has exercised his or her right of appeal or filed an administrative agency complaint or sought judicial review on a reasonable accommodation request, or who has assisted or encouraged another person to do so, or who has assisted in the investigation of a reasonable accommodation claim.

15. RECORDS

[15.1] The PRHA shall maintain in the individual file of any applicant or resident requesting reasonable accommodation copies of the following documents for a period of seven years from the date of the reasonable accommodation request: the Request(s) for Reasonable Accommodation; the Denial or Approval Notice(s); any final decision following an informal hearing; any settlement agreements; any decision(s) of the Hearing Officer or PRHA Administrator/designee; any decision(s) of an administrative agency or a court; documentation that an approved accommodation has been implemented; and all correspondence between the applicant or resident and PRHA, and between PRHA and verification sources concerning the reasonable accommodation request.

[15.2] PRHA Occupancy Department shall maintain a distinct log (or section of a log) containing a record of all the reasonable accommodation requests made by applicants to PRHA, all the responses to and decisions made by PRHA on those requests, and all follow up actions taken by PRHA for a period of seven years from the date of each request.

[15.3] Each development management office shall maintain a distinct log (or section of log) containing a record of all the reasonable accommodation requests made by residents at that development, all the responses to and decisions made by PRHA on those requests, and all follow up actions taken by PRHA for a period of seven years from the date of each request. This log shall also include information on all reasonable accommodation transfer requests and the resulting responses and decisions.

16. NOTICE TO PRHA EMPLOYEES AND TRAINING

[16.1] All current PRHA employees shall be advised of PRHA's Reasonable Accommodation in Housing Procedures and their responsibilities thereunder. New employees shall be similarly advised by a letter from the PRHA Deputy Executive Director at the commencement of their employment.

[16.2] All employees in management positions and all persons working in the Occupancy Department, Housing Management, Executive Department, and development management offices shall receive a full copy of the RAHP and shall sign an acknowledgment form within 14 days of receipt.

[16.3] PRHA shall provide a training program on the RAHP for PRHA management and staff of the Occupancy Department, development management offices, Housing Choice Voucher Program and any other PRHA employees responsible for implementing the RAHP, which focuses on identifying, determining and implementing appropriate reasonable accommodations for individuals with disabilities, within 9 months of adoption and implementation by PRHA of the RAHP. Each employee shall sign in at each session acknowledging his or her participation. New PRHA employees in the offices listed above and any other employees who will have implementation responsibility under the RAHP shall also be required to undertake the training, within 7 months of the commencement of employment.

[16.4] The PRHA Human Resources Department will maintain records of all PRHA employees who have participated in the RAHP training program.

V. APPLICABLE REQUIREMENTS AND OTHER ISSUES

FEDERAL, STATE AND LOCAL LAWS GOVERNING HOUSING RIGHTS

(1) **Title VIII of the Civil Rights Act of 1968, as amended in 1988** (The Fair Housing Act, 42 U.S.C. §§ 3601-3619): The Fair Housing Act prohibits all forms of discrimination in the sale or rental of most dwellings because of the handicap of the renter or buyer, or any person residing in the dwelling, or associated with the renter or buyer. It explicitly includes the refusal to make reasonable accommodation in rules and practices and to permit reasonable modifications where necessary as a form of handicap discrimination. The Act's general non-discrimination provisions also cover race, color, religion, sex, national origin, and families with children under 18.

(2) **Section 504 of the Rehabilitation Act of 1973**, (29 U.S.C. §794): Section 504 makes it unlawful to exclude otherwise qualified individuals with disabilities from participating in, to deny them the benefits of, or to subject them to discrimination under any program or activity receiving federal financial assistance, solely because of their disability. Section 504 case law and implementing regulations make it clear that a public housing authority must provide reasonable modifications and a readily accessible program for the disabled.

(3) **Americans with Disabilities Act of 1990, Title II** (42 U.S.C. § 12101 et seq.), (ADA): The ADA (Title II) extends the protections of Section 504 to all activities of state and local governments and their instrumentalities, including public housing authorities, regardless of the receipt of federal funding. The ADA protects qualified individuals with disabilities, requires program access similar to Section 504, and provides for reasonable modifications.

(4) **Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq)**: Title VI makes it unlawful to exclude any person on the grounds of race, color or national origin or to deny them the benefits of, or to otherwise subject them to discrimination under any program or activity receiving federal financial assistance.

(5) The **federal regulations** implementing each of these statutes are set forth in the Code of Federal Regulations as follows:

Title VIII – 24 C.F.R. Part 100 et seq Section 504 – 24 C.F.R. Part 8 ADA, Title II – 28 C.F.R. Part 35 Title VI – 24 C.F.R. Part 1

: This Act makes it unlawful for an owner, lessor, or managing agent of housing accommodations to refuse to rent, lease, or to discriminate in the provision of housing to any

person or group of persons because of their race, religious creed, color, national origin, sex, sexual orientation, ancestry, age, marital or familial status, receipt of public assistance or disability. The Act specifically provides that refusal to make reasonable accommodations where necessary and (for publicly assisted housing) reasonable modifications constitutes discrimination based on disability.

OTHER ISSUES

Grievance Hearings

If a resident with a disability believes he or she needs reasonable accommodation in order to participate in a grievance hearing on any issue, he or she shall request the accommodation in writing on the grievance hearing request form; specify the nature of the accommodation sought; and direct it to the PRHA Hearing Officer. The Hearing Officer shall make any reasonable adjustments which are necessary to permit the resident's participation. If the Hearing Officer proposes to deny the request, that decision shall be reviewed by the Deputy Executive Director, who will document in writing his or her approval or disapproval of the proposed denial. Any denial by the Hearing Officer shall be made in writing before the hearing date, and shall explain its basis and provide a right of appeal to the PRHA Director of Housing Services; and shall state that the resident also has the right to file a fair housing complaint with HUD or in court. Copies of all reasonable accommodation requests involving a grievance hearing and the PRHA's responses thereto shall be filed in the individual resident's file and the development management office reasonable accommodation log, as provided at Section IV, paragraph [14.1] and [14.3] above.

Potential Abandonment

If a resident with a disability is hospitalized or enters a residential treatment center for a significant length of time because of that disability, and the resident ceases to pay rent to PRHA, PRHA may send a notice to the resident (or to his/her authorized representative or emergency contact) on potential abandonment in accordance with PRHA's abandonment procedure. Any such notice shall, however, include a statement by PRHA that if the resident is a qualified individual with a disability and his or her absence is a result of that disability, the tenant may request reasonable accommodation with respect to PRHA's customary procedures for abandonment of a unit. For example, a resident who intends to return to the apartment may request that arrangements be made for continued rent payments by a third party or service provider while he or she is hospitalized or receiving treatment.

Personal Care Attendants

See PRHA Admissions and Continued Occupancy Policy or Section 8 Administrative Plan or

any successor plan.

Accessibility

All programs and activities conducted by the PRHA shall comply with all applicable statutory and regulatory requirements for accessibility. See also PRHA Admissions and Continued Occupancy Policy or Section 8 Administrative Plan or any successor plan and PRHA lease.

Companion Animals

See PRHA PRHA Admissions and Continued Occupancy Policy or Section 8 Administrative Plan or any successor plan and PRHA's Pet Policy and Rules.

FORMS

NOTICE TO APPLICANTS WITH DISABILITIES REGARDING REASONABLE
ACCOMMODATION

The Portsmouth Redevelopment and Housing Authority (PRHA) is a public agency that provides low rent housing to eligible families, elderly/handicapped/disabled households and single people. The PRHA does not discriminate against applicants on the basis of their race, creed, color, religion, sex, national origin, marital or familial status, disability, elderliness, receipt of public assistance or sexual preference. Under applicable law, PRHA provides “reasonable accommodation” to applicants if they or any household member(s) have a disability or handicap and if the reasonable accommodation is necessary to provide an equal opportunity to use and enjoy the housing.

A reasonable accommodation is some modification or change the PRHA can make to its apartments or procedures that will assist an otherwise eligible applicant with a disability/handicap to take advantage of the PRHA’s programs, provided that the change does not pose an undue financial and administrative burden to the PRHA or require a fundamental change in its program. A reasonable accommodation may also include providing an appropriate auxiliary aid to an applicant with a disability/handicap where such assistance is necessary to enable effective communication with the applicant.

Examples of reasonable accommodation may include PRHA:

- Installing flashing light smoke detectors in an apartment for a household with a hearing-impaired member;
- Making a reader available to a vision-impaired applicant during an interview;
- Making a sign language interpreter available to a hearing-impaired applicant during an interview;
- Permitting an outside agency to assist an applicant with a disability/handicap to meet the PRHA’s applicant screening criteria.

An applicant household that has a member with a disability/handicap must still be able to meet essential obligations of tenancy—they must be able to pay rent, to care for their apartment, to report required information to the housing authority, to avoid disturbing their neighbors, etc. This

requirement takes into consideration whether any requested reasonable accommodation would permit the applicant to be considered eligible.

If you or a member of your household have a disability or handicap and think you might need or want a reasonable accommodation, you may request it in writing at any time in the application process or after admission. This is up to you. If you would prefer not to discuss your situation with the housing authority, that is your right.

You can get a Request for Reasonable Accommodation form from the PRHA Occupancy Department located at 1749 South Street or at any PRHA Development Management Office. If you require help in filling out that form or need to submit your request in some other way, you should contact an Occupancy Specialist at 1749 South Street, (757) 391-3056 or (757) 391-3059 or TDD #1-800-545-1833 Ext. 869.

If you have any questions or problems on reasonable accommodation, you should contact the Reasonable Accommodation Coordinator in the Executive Office, at 801 Water Street, Portsmouth VA, (757) .

(Esta Es Una Noticia Importante. Por Favor Hagala Traducir Inmediatamente

REQUEST FOR REASONABLE ACCOMMODATION

NAME: _____ **PHONE:** _____

DEVELOPMENT: _____

ADDRESS:

1. The following member of my household has a disability as defined below: (A physical or mental impairment that substantially limits one or more life activities; or a record of having such an impairment; or regarded as having such an impairment)

Name: _____

Relationship or association with you*

2. As a result of this disability, I am requesting the following reasonable accommodation:
(Please check one or more boxes below.):

A change in my apartment or other part of the housing development. Please specify

A change in the following rule, policy or procedure. (Note that a change in how to meet the terms of the lease may be requested, but the terms of the lease must be met.). Please specify:

Other (for example, a change in the way the PRHA communicates with you). Please specify:

3. This request for reasonable accommodation is necessary so that I can: (please specify)

4. I authorize Portsmouth Redevelopment and Housing Authority to verify that I have a disability and have the need for the reasonable accommodation I have requested. In order to verify this information PRHA may contact the following physician, psychiatrist, licensed psychologist, licensed nurse practitioner, licensed social worker, rehabilitation professional, nonmedical service agency whose function is to provide services to the disabled, or other expert in the field.

(Note: You may present verification directly to PRHA)

Name:

Title of professional or expert: _____

Agency, Facility or Institution (if any) _____

Address: _____

Telephone: _____

I understand that the information obtained by the PRHA will be kept completely confidential and used solely to make a determination on my reasonable accommodation request.

Please return this form as promptly as possible so that the PRHA may make a determination on this request.

Signed: _____ Date: _____

[Head of household or authorized representative]

Witness: _____ Date: _____

*If on behalf of a minor child, please indicate whether you are the parent or guardian. Where the individual with the disability is over 18 and is not the head of household, he or she should sign the authorization for verification

LETTER ADVISING APPLICANTS OF MITIGATING CIRCUMSTANCES AND
REASONABLE ACCOMMODATION OPTION

Date:

Client
Control #

Dear

In the process of determining your eligibility for public housing, PRHA has received certain negative information which, in all probability, will require that the Authority determine you ineligible for housing pursuant to our regulations.

Specifically, _____

(If you request it, a copy of the information will be provided to you.)

However, prior to making a final determination of your eligibility, the Authority wishes to provide you with an opportunity to present any additional information and/or documentation which you would like to have considered as a mitigating circumstance. Please submit such information and/or documentation which may include a written statement explaining your views with respect to the negative information indicated above. Please forward the information in the specially marked enclosed envelope addressed to my attention.

All such information/documentation must be received in this office within 30 days of the above date. Once the information/documentation is received, it will receive a thorough review and a final decision on your eligibility will be issued promptly. In addition, if you are a person with a disability or handicap, there may be a reasonable accommodation that can be made that will enable you to comply with the terms of PRHA's lease and allow us to determine you eligible for the housing program.

If you wish to request a reasonable accommodation, you should submit a completed Request for Reasonable Accommodation to the Occupancy Department at 1749 South Street, Portsmouth VA, 23704, within 30 days of the above date. For any questions regarding reasonable accommodation, please contact the PRHA Occupancy Officer at (757) 391-3054, TDD 1-800-545-1833 x869.

If we do not hear from you within the prescribed time, we will assume that you do not choose to take advantage of this opportunity, and we will make a decision on your eligibility based on the information already contained in your file.

Very truly yours,

Name

Title

Phone number

(Esta Es Una Noticia Importante. Por Favor Hagala Traducir Inmediatamente)

REQUEST FOR MORE INFORMATION OR VERIFICATION REGARDING REASONABLE
ACCOMMODATION REQUEST

Date

Client
Control #

Dear

We have received your request for a reasonable accommodation. We need to know more about [issue, in a clear and simple language] before we make a decision.

We need to know more because:

[reason, in clear and simple language].

Some ways you could give us more information are:

[give examples of suggested sources of information or verification]

If these ways are a problem for you, there may be some other ways to provide the information we need. We will be happy to talk to you about other ideas you may have.

We will be unable to consider approval of your request until we have this new information. Please provide this information to us by _____ (not less than 20 days from date of this letter). If you think that you have already given us this information or if you think we should not ask for this kind of information, please call us at _____ or TDD# 1-800-545-1833 Ext. 869. Please call if you have any other questions.

Very truly yours,

(Name)
(Title)
(Phone #)

(Esta Es Una Noticia Importante. Por Favor Hagala Traducir Inmediatamente)

RA Form #4

INSTRUCTIONS FOR REASONABLE ACCOMMODATION FORM #4

(Examples of issues and why a housing provider needs to know more.)

1. **Issue:** Usually tenants just drop off rent checks without discussion. Explain why you need a sign language interpreter when you do this.

Reason: We will provide communication assistance if you show it is necessary because there is something important you have to communicate each time.

2. **Issue:** You state that you need a washer in your apartment even though the laundry room is accessible. Neither your request nor the doctor's letter explains what it is about the laundry room and/or its relationship to your apartment that makes the laundry room unusable for you.

Reason: We will provide a washer in your apartment if you explain how it is necessary in order for you to have equal access to doing your wash.

3. **Issue:** Please show us how you meet the definition of "individual with a disability".

Reason: If you do not meet this definition we do not have to make the change you requested.

LETTER FOR A MEETING ABOUT REASONABLE ACCOMMODATION

Date

Client
Control #

Dear

We have received your request for a reasonable accommodation. It would help us make our decision if we could meet with you. If because of your disability you will need special assistance at the meeting, please let us know immediately. You may bring someone to help you to the meeting.

We would like to meet on

_____. [date, time, place]

If you cannot come at that time, please call

_____ to arrange [name, title, phone number or
TDD # 1-800-545-1833 Ext. 869]

At this meeting, we will talk about the accommodation you have requested [describe issue simply and clearly including specific questions, if any]. [See example below.] Please come ready to talk about the changes you requested. Please bring copies of any information you think might help us understand what you need.

We look forward to meeting with you.

Very truly yours,

(Name)
(Title)
(Phone #)

EXAMPLE:

(At the meeting we would like to discuss the hot tub you say that you need in your apartment because of your disability. We would like to learn more about alternatives that may be possible to meet your needs since the apartment's floor beams may not have sufficient weight bearing capacity for a hot tub.)

CERTIFICATION OF NEED FOR REASONABLE ACCOMMODATION OR SPECIAL UNIT

Resident or Applicant Name: _____

Development: _____

Address:

(Include apartment number and floor location)

Phone: _____

I have applied for a reasonable accommodation for Portsmouth Redevelopment and Housing Authority (PRHA) housing and request that you fill out the following certification. Enclosed is a copy of my Request for Reasonable Accommodation.

Signed: _____ **Date:** _____

Signed: _____ **Date:** _____

(Head of Household or Household member with disability who is over 18)

PLEASE RETURN TO:

Portsmouth Redevelopment and Housing Authority
Department/Development Name
P O Box 1098
Portsmouth VA 23705

Please check any paragraph below which applies.

1. In my opinion, the Applicant or Resident has a disability as defined below.

[] YES [] NO

A) ___ A physical or mental impairment that substantially limits one or more major life activities.

B) ___ A record of having such an impairment.

C) ___ Is regarded as having such an impairment.

2. In my opinion, the Applicant's or Resident's disability requires that a **wheelchair-accessible** apartment be made available to the Applicant or Resident:

[] YES [] NO

3. In my opinion, the following features are necessary for the Applicant/Resident's Wheelchair accessible unit:

4. In my opinion, the Applicant's or Resident's disability requires that a fully accessible apartment or **other physical modifications to the apartment or common area, including assistive technology, or reasonable accommodations to the rules and policies** of the housing development be made in order for the Applicant or Resident to have equal opportunity to live successfully in this housing.

[] YES [] NO

Please describe the special housing features, types of physical adaptation, assistive technology, or accommodations in rules or policies which are needed, or verify that the enclosed description of needed changes, requested by the Applicant or Resident, are necessary for equal enjoyment of the housing opportunity as a result of his/her disability.

[] The above changes to the apartment or common area or to policies and procedures is necessary as a direct result of the Applicant/Resident's disability, for the Applicant or Resident to have an equal housing opportunity.

OR

[] **I do not believe** the Applicant/Resident needs a change to the apartment or common area or to policies and procedures, as a result of his/her disability, to have an equal housing opportunity.

OR

[] **I verify** that the enclosed request for changes to the apartment or common area or to policies and procedures is necessary for the above named person, as a result of his/her disability, to have equal housing opportunity.

Please initial the enclosed Request for Reasonable Accommodation.

OR

[] **I cannot verify** that the enclosed request is necessary for changes to the apartment or common area or to policies and procedures for the above named person, as a result of his/her disability, to have equal housing opportunity.

Please initial the enclosed Request for Reasonable Accommodation.

Please indicate, if applicable and you have such information, where any specialized equipment may be obtained.

Signed: _____ **Date:** _____

Printed Name: _____

Title: _____ **Phone:** _____

Title of medical or rehabilitation professional or expert
Agency or Institution, if applicable

Address: _____

If you have any questions about filling out this form, please call:

name

title

phone number

Please indicate how current your knowledge is regarding this individual.

Within the last six months _____ Prior to the last six months _____

LETTER TO VERIFICATION SOURCE FOR A REASONABLE ACCOMMODATION
REQUEST

Date:

Dear _____:

Enclosed is a Certification of Need form signed by _____, asking you to verify his or her disability and need for a reasonable accommodation in his or her housing. If the household member with the disability is over 18 and is not the head of household, he or she has also signed this form authorizing your verification.

State and Federal laws require housing providers to make reasonable accommodations or changes to either the apartment, other parts of the housing complex, or to house rules, policies and procedures (not essential terms of the lease) if such changes are necessary to enable a person with a disability to have equal access to, and enjoyment of, the apartment and other facilities or programs at the site. Please note that such changes must be **necessary** as a result of the person's disability.

The applicant or resident in question has requested the accommodation described on the enclosed Request for Reasonable Accommodation. Please indicate on the Certification of Need Form whether you believe the individual has a disability within the definition provided at section 1, and that the accommodation is necessary and will achieve its stated purpose. You may also add any other information that would be helpful in making the right accommodation for this person. If part of the applicant/resident's reasonable accommodation plan includes services to be provided by your organization, please indicate whether your organization will provide those services, and if so, when those services would begin.

This form should not be used to discuss the person's diagnosis or any other information that is not directly relevant to the request for an accommodation.

Please return this form by _____ (not less than 20 days from date of letter).

You can call _____(name, title, phone number or TDD #1-800-545-1933, Ext. 869 if you have any questions. Thank you.

Please return the form to: _____

Very truly yours,

(Name)

(Title)

(Phone #)

(Esta Es Una Noticia Importante. Por Favor Hagala Traducir Inmediatamente

RA Form #7

DENIAL OF REQUEST FOR REASONABLE ACCOMMODATION

Date

Name
Address
City, State Zip

Dear:

You requested the following change or reasonable accommodation: [request]. We have denied your request because:

You do not meet the definition of a person with a disability and we are not required to provide a reasonable accommodation.

You do not need this accommodation in order to enjoy or participate equally in our housing.

We think the accommodation you requested is not reasonable because

It will cost too much money and/or is more work than our staff can do (an undue financial and administrative burden).

It will change the fundamental nature of our program.

Based on the documentation you provided, we do not believe the accommodation you requested is likely to enable you to comply with the terms of your lease.

We decided this because:

[give reasons in clear, simple language]. We used these facts to deny your request

[give facts in clear, simple language]. To make this decision we

[list documents or records reviewed, people spoken with, and other aspects of investigative process].

If you disagree with this decision, you may exercise the following appeal rights within the PRHA:

For applicants: Request an informal hearing by writing to the Occupancy Officer, Portsmouth Redevelopment and Housing Authority, P O Box 1098, Portsmouth VA 23705, within 20 days from the date of this letter.

For residents: Request a grievance hearing by writing to PRHA Asset Manager, Portsmouth

Redevelopment and Housing Authority, P O Box 1098, Portsmouth VA 23705, within 20 days from the date of this letter.

Whether or not you exercise these PRHA appeal rights, you may also file a fair housing complaint with the U.S. Department of Housing and Urban Development, 600 East Broad Street, Richmond VA 23219, or in court.

Very truly yours,

(Name)_____

(Title)_____

(Phone #)_____

(TDD#) 1-800-545-1833 , Ext. 869

RA Form #8

INSTRUCTIONS FOR REASONABLE ACCOMMODATION FORM #8

Example: Why a request might be unreasonable.

We cannot walk your dog for you. Although your disability requires you to have a dog, you will have to care for your dog because it is not reasonable to expect a landlord to do this for you.

You asked us to ban children from playing in the courtyard because the noise upsets you. We can't do this because the playground equipment is in the courtyard and children need a place to play.

Example: Description of facts.

You said you walked to work each day. This is a half-mile. It is only a block to the rental office. Since this is shorter, we think you can bring your rent check to the office.

Example: What verification source said.

You asked us to call your physical therapist (name) to verify that you are being treated for an injury that prevents you from walking to the office. However, she said you can walk one block now and that soon you would have no limitations. You then told us that you can walk to the office, but that is a "bother."

Example: Unlikely to be effective.

You asked us to let you have time to try a treatment plan, which will keep you from disturbing your neighbors by banging on the wall. However, you did not keep your last agreement to follow the treatment plan and you have not provided any reason why you would now follow that plan.

Inst. RA Form #8

REASONABLE ACCOMMODATION APPROVAL NOTICE

Date: To: Name _____ Address _____

Dear As a result of your request, we have approved your request for the following change or reasonable accommodation:

[Description, including any terms, conditions and performance expectations and reason for such conditions]

We expect to provide this accommodation by _____(date). [If the date is longer than 30 days from date of the letter, please explain why a later date is necessary.]

We expect the accommodation to be completed on or about _____.

Please call _____ if you have any questions. [name, title, phone number, or TDD# 1-800-545-1833, Ext. 420]

If you think this accommodation will not meet your needs or will take too long to provide, you may:

For applicants: Request an informal hearing by writing to the Director of Civil Rights, PRHA, 52 Chauncy Street, Boston, within 20 days from the date of this letter.

For residents: Request a grievance hearing by writing to Grievance Panel Coordinator, PRHA, 52 Chauncy Street, Boston, within 20 days from the date of this letter.

Whether or not you exercise these PRHA appeal rights, you may also file a fair housing complaint with the U.S. Department of Housing and Urban Development, 10 Causeway Street, Boston, MA 02222, or the Massachusetts Commission Against Discrimination, One Ashburton Place, Room 601, Boston, MA 02108 or in court.

(Name) _____

(Title) _____ (Phone

#) _____

(Esta Es Una Noticia Importante. Por Favor Hagala Traducir Inmediatamente

NOTICE TO RESIDENTS WITH DISABILITIES REGARDING REASONABLE
ACCOMMODATION

The Portsmouth Redevelopment and Housing Authority (PRHA) is a public agency that provides low rent housing to eligible families, elderly/handicapped/disabled households and single people. The PRHA does not discriminate against residents on the basis of their race, creed, color, religion, sex, national origin, marital or familial status, disability, age, receipt of public assistance, or sexual preference. Under applicable law, the PRHA provides "reasonable accommodation" to residents if they or any household member(s) have a disability or handicap and if the reasonable accommodation is necessary to provide an equal opportunity to use and enjoy the housing.

A reasonable accommodation is some modification or change the PRHA can make to its apartments or procedures that will assist an otherwise eligible resident with a disability/handicap to take advantage of the PRHA's programs, provided that the change does not pose an undue financial and administrative burden to the PRHA or require a fundamental change in its program. A reasonable accommodation may also include providing an appropriate auxiliary aid to a resident with a disability/handicap where such assistance is necessary to enable effective communication with the resident.

Examples of reasonable accommodations may include the PRHA:

- Installing a flashing light doorbell in an apartment for a household with a hearing-impaired member;
- Installing raised numbers on the mailbox and in the elevator for a vision-impaired resident;
- Providing a mobility-impaired resident with a handicapped parking space near his/her unit although the PRHA's parking policy is "first come, first served";
- Mailing a lease recertification to a disabled resident or bringing it to his or her apartment although the PRHA normally requires pick-up in person;
- Permitting a third party representative to assist a disabled resident at PRHA conferences or meetings.

A resident household that has a member with a disability/handicap must still be able to satisfy essential obligations of tenancy - they must be able to pay rent, to care for their

apartment, to report required information to the housing authority, to avoid disturbing their neighbors, etc. This requirement takes into consideration whether any requested reasonable accommodation would permit the resident to satisfy essential tenancy obligations.

If you or a member of your household have a disability or handicap and think you might need or want a reasonable accommodation, you may request it in writing at any time during your tenancy. This is up to you. If you would prefer not to discuss your situation with the housing authority, that is your right.

You can get a Request for Reasonable Accommodation form at your development management office or from the PRHA Occupancy Office. If you require help in filling out that form or need to submit your request in some other way, you should contact your Property Manager.

If you have any questions or problems on reasonable accommodation, you should contact the Reasonable Accommodation Coordinator in the Office of Civil Rights, at 52 Chauncy Street, Boston ([617] 988-4383, and TDD # 1-800-545-1833 Ext. 420)

(Esta Es Una Noticia Importante. Por Favor Hagala Traducir Inmediatamente)

RA Form #10

APPENDICES

APPENDIX A
COVERAGE OF DISABLED INDIVIDUALS

A. DEFINITION OF AN INDIVIDUAL WITH A DISABILITY

- 1) For the purpose of determining whether civil rights protections apply, a person is an “individual with a disability” if he or she has, or has a record of having, or is regarded as having, a physical or mental impairment which substantially limits one or more of his or her major life activities¹ There are three necessary elements to this definition:
- A physical or mental impairment
 - Which substantially limits
 - One or more of the person’s major life activities.

All three elements must be present. However, a person is not an “individual with a disability” if he or she is a current illegal user of a controlled substance² (illegal drugs which have not been prescribed by a medical provider).

- 2) A “physical impairment” is any physiological disorder or condition, loss, disease or disfigurement which affects one or more body systems. A physical impairment can be caused by illness, disease, a birth defect, injury, age or any other cause that disrupts a person’s physical ability to function. A physical impairment includes, but is not limited to:
- Cerebral Palsy
 - AIDS and HIV infection
 - Visual impairment
 - Hearing impairment
 - Cancer
 - Heart Disease
 - Epilepsy
 - Arthritis

3) A “mental impairment” is any mental, psychiatric or psychological disorder. A mental impairment includes, but is not limited to:

- Mental illness
- Mental retardation
- Alcoholism³
- Past drug use (only in certain circumstances)
- Emotional disorders or illness
- Specific learning disabilities

4) A physical or mental impairment “substantially limits” a person in one or more “major life activities” if it causes substantial difficulty in a person’s ability to:

- See, hear, speak, or breathe
- Learn, think, or read

¹ A person who fits this definition only because he or she is regarded or perceived as disabled but does not actually have a disability or a history of an actual disability is protected by law against discrimination but does not have a right to reasonable accommodation. This is because the accommodation would not be necessary to provide him or her with an equal opportunity to use and enjoy the housing.

² "Controlled substances" are those drugs which are identified at 21 U.S.C. §802, but they do not include alcohol.

³ Under the applicable federal civil rights statutes, alcoholism is considered an impairment in the context of housing programs. However, where a person’s abuse of alcohol would interfere with the health, safety or right to peaceful enjoyment by other residents, he or she would not be “otherwise qualified” for certain housing programs. See Footnote 5 following.

- Work, walk, or perform manual tasks
- Care for himself or herself
- Engage in some other “major life activity”.

B. EXCLUSIONS AND EXEMPTIONS FROM PROTECTION

Under certain circumstances, civil rights laws specifically exclude or exempt an individual with a disability from their protection, and thus allow the denial of admission to or termination of tenancy of an individual with a disability. One of the following conditions must apply:

- The individual’s tenancy would pose a direct threat to the health or safety of others, and reasonable accommodation would not eliminate that threat; or
- The individual’s tenancy would result in substantial damage to the property of others, provided that a reasonable accommodation would not eliminate the threat; or
- The individual is not “otherwise qualified” because the resident does not meet the essential eligibility requirements for the program; such as being low income or
- The individual has been convicted by any court of the illegal manufacture or distribution of drugs; or
- The individual is a current illegal drug user.

In order to exclude a person on the basis of threat to health or safety, it is necessary to show how the particular person living in a building would pose a direct threat or substantial risk of harm to others. Such a claim must be based on objective evidence rather than on generalized assumptions, subjective fears, and/or speculations. It should be founded on a history of actions by an applicant or resident, provided that there have not been changes in the meantime which make it likely that such actions would not recur. Also, if a reasonable accommodation could eliminate or sufficiently reduce the risk to health or safety, that accommodation must be provided. However, if it can be shown that no reasonable accommodation is possible to lessen the risk of harm, then no accommodation is necessary.

Significant past threats to property or property damage by a resident who is an individual with disability, including threats or damage which result from a person’s disability, may be reason to

deny admission or to terminate tenancy, provided there have been no changes which would make it likely that such actions would not recur, and there is no reasonable accommodation requested which could reduce damage to a reasonable level. This exclusion does not apply to normal wear and tear to a unit which might be expected from a resident's disability, such as the nicking of walls and door frames from a wheelchair.

An individual with a disability who may need a reasonable accommodation is protected by law as long as he or she is "otherwise qualified" for the housing program. To be qualified means that the person requesting the accommodation meets all the essential minimum eligibility requirements that are necessary to obtain the housing. See the PRHA Admission and Continued Occupancy Plan or Housing Choice Voucher Administrative Plan or any successor plan. The minimum requirements assume that the person's tenancy will not constitute a direct threat and/or significant risk of harm to the health and safety of PRHA residents or employees. Reasonable accommodation is not required for an individual with a disability who is not otherwise qualified and, therefore, is not eligible for housing. However, the determination of whether a person is "otherwise qualified" shall be made in the context of whether a reasonable accommodation would permit the person to meet the eligibility requirements of the program.

For example, where a PRHA applicant was previously evicted from a PRHA apartment for non-compliance with lease terms related to a disability, and reasonable accommodation is now requested and available which would enable the applicant to comply with his or her lease, then he or she would be "otherwise qualified." But if a PRHA applicant has a criminal record of violent crimes which resulted from a disability and cannot demonstrate mitigating circumstances like successful rehabilitation, and there is no reasonable accommodation available which would eliminate or sufficiently reduce the risk to others, then he or she would not be "otherwise qualified."⁴

C. SPECIFIC SITUATIONS: DRUG ADDICTION; ALCOHOL ABUSE; PSYCHIATRIC DISABILITY; HIV OR AIDS

The laws which protect individuals with disabilities from discrimination explicitly exclude from their protection individuals who currently and illegally use drugs. However, an individual who is not currently using drugs but has a history of illegal drug use is protected by the laws. The exclusion from protection based on current illegal use of drugs applies to a person whose illegal use of drugs occurred recently enough to justify a reasonable belief that the person's use is current. If such a reasonable belief exists, the PRHA may terminate a tenancy or deny the applicant admission even if the person is an individual with a disability. Therefore, the PRHA must make a reasonable judgment, based on the specific facts relating to the individual, which determines whether he or she is excluded from protection because of current illegal use of drugs.

If a person has a history of illegal drug use, is not currently using illegal drugs, and has either successfully completed a drug rehabilitation program or is participating in a drug treatment program or self-help group or has otherwise been rehabilitated successfully, then it is clear that he or she is not a current illegal drug user.

A person with alcoholism is not excluded from protection under non-discrimination law, but he or she must be "otherwise qualified" for housing with or without reasonable accommodation like any other individual with disability. A person with alcoholism may be excluded or terminated from tenancy if his or her behavior poses a direct threat to the health or safety of others or would result in substantial damage to the property of others or if he or she is not "otherwise qualified," but only if reasonable accommodation will not eliminate that risk. In addition, legislation pertaining to federal public housing provides that persons whose abuse of alcohol would "interfere with the health, safety or right to peaceful enjoyment of the premises by other residents" ⁵ may also be excluded or terminated from tenancy by a public housing authority (PHA). In determining whether to deny admission or to terminate tenancy on this basis, the PHA is authorized to consider evidence of successful alcohol rehabilitation as set forth in the statute.

A person with a psychiatric disability is covered under non-discrimination law and may be

excluded or terminated from tenancy only if his or her behavior poses a direct threat to the health or safety of others or would result in substantial damage to the property of others or if he or she is not “otherwise qualified,” and if reasonable accommodation will not eliminate that risk.

The same analysis applies to persons who are HIV positive or who have AIDS. A diagnosis of HIV or AIDS does not by itself pose a direct threat to others.

4 an applicant would also be not "otherwise qualified" if he or she has a criminal record of violent crimes which does not result from the disability and no mitigating circumstances can be demonstrated.

5 See 42 U.S.C. § 13661 and § 13662, as enacted by Pub. L. 104-120 (1996).

APPENDIX B

EXAMPLES OF ACCOMMODATIONS LIKELY TO BE CONSIDERED REASONABLE

- Lowering a cabinet, widening a doorway, or installing a grab bar for a person with a mobility impairment.
- Installing an automatic water shut-off for a person whose disability prevents his or her remembering to turn off the water.
- Allowing a resident with a mental disability which prevents him or her from paying bills on time to have rent payments made by a third party payee.
- Allowing a resident whose newly manifested mental disability causes her to damage her apartment to seek mental health assistance to alleviate the destructive conduct, and giving that assistance a reasonable time to work, as opposed to completing eviction proceedings.

EXAMPLES OF ACCOMMODATIONS NOT LIKELY TO BE CONSIDERED REASONABLE

- Providing a paraplegic resident with a person to do housekeeping.
- Allowing a resident with depression to "not pay" his or her rent because he or she is too depressed to pay it.
- Permitting a resident with a psychiatric disability who has a documented psychological dependence on a pet to keep the pet in her apartment where there is a "no pet" rule, if she is incapable of caring for the pet and no arrangement for its care can be made.
- Approving a request by a mentally ill resident that children at the development be prohibited from playing in the courtyard because the noise disturbs him, where the playground equipment is located in that area and no other site is available.