



TACOMA HOUSING AUTHORITY

Policy No.	CR-10
Policy	Reasonable Accommodation and Modification
Date	September 30, 2015

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1. Purpose

This policy sets forth the criteria and the process by which THA shall fulfill its legal obligations to reasonably accommodate the needs of qualified disabled staff, job applicants, tenants and other recipients of THA services or applicants. This policy also sets forth the criteria and the process by which THA will make reasonable modifications to its premises to make them accessible for use by disabled persons.

THA does not intend this policy to enlarge its legal obligations.

The procedures set forth in this policy provide the grievance process required by 24 C.F.R. § 8.53(b) and 28 C.F.R. § 35.107(b), along with the additional complaint and grievance procedures of *THA Policy HR-65 Employee Complaint Process* and *THA Policy PM-10.200 Grievance Procedure for Tenants, Voucher Holders, and Applicants*.

THA intends the procedure in this policy to provide a reasonable balance between informality and structure. Informality allows THA staff to respond quickly to a request for accommodation/modification. Informality also can encourage a hospitable interactive discussion with people seeking accommodation/modification unburdened by formal structure. More formality can slow down THA's response and be less hospitable. However, a more formal process can also provide better assurance that THA's response is informed, correct, and well documented. In general, this policy tries for a balance by providing a faster, less formal process for approving requests and a more formal process for denials.

2. Sources for Policy

<ul style="list-style-type: none">▶ Fair Housing Act<ul style="list-style-type: none">~ 42 U.S.C. § 3601 et seq~ 24 C.F.R. Part 100 et seq~ H 02-03 (May 3, 2002)~ PIH 2003-31 (November 26, 2003)~ Joint Statement of HUD and DOJ on Reasonable Accommodation under the Fair Housing Act (May 17, 2004)	<ul style="list-style-type: none">▶ American with Disabilities Act<ul style="list-style-type: none">~ 12 U.S.C. § 12101 et seq~ 28 C.F.R. Part 35~ 29 C.F.R. § 1630
<ul style="list-style-type: none">▶ Washington Law Against Discrimination<ul style="list-style-type: none">~ Chap. 49.60 RCW~ Chap. 162-26 WAC~ Chap. 162-38 WAC	<ul style="list-style-type: none">▶ Section 504 of the Rehabilitation Act of 1973<ul style="list-style-type: none">~ 29 U.S.C. § 794~ 24 C.F.R. Part 8
<ul style="list-style-type: none">▶ City of Tacoma Discrimination Law<ul style="list-style-type: none">~ TMC Chap. 1.29	

3. Scope of Policy

This policy applies to all of THA’s activities, including employment, housing programs, and applications for employment or programs. The duty to modify a dwelling unit applies to properties that THA owns.

4. Who is Responsible for Implementing Policy

Who	Responsibilities
All THA Staff	All staff must be alert for the needs that disabled persons (other staff, tenants, Voucher holders, and applicants) may have for reasonable accommodation/modification under this policy. When appropriate, staff should offer to help persons who appear to need help making a request under this policy for reasonable accommodation/modification.
Civil Rights Compliance Auditor (CRCA)	<ul style="list-style-type: none"> ▶ Pursuant to <i>THA Policy CR-05, Prohibition of Unlawful Discrimination, Harassment and Retaliation</i>, THA’s Civil Rights Compliance Auditor (CRCA) is designated as THA’s Civil Rights Compliance Auditor. This means that he or she has the following duties: ▶ Coordinate and monitor THA’s compliance with this policy; ▶ Coordinate THA’s compliance with Section 504 and the ADA pursuant to 24 C.F.R. § 8.53(a), and 28 C.F.R. § 35.107(a). ▶ Chair and Staff the Reasonable Accommodation Review Committee pursuant to this policy; ▶ Mail all notices under this policy; ▶ Proper storage of the records under this policy; ▶ Compile data on THA’s compliance under this policy; ▶ Arrange for training as appropriate for staff with responsibilities under this policy. ▶ Serve as First and Second Line Staff person on requests for reasonable accommodations that do not fall within the responsibility of anyone else.
Human Resource Director	<ul style="list-style-type: none"> ▶ The HR Director is both the First and Second Line Staff person for requests for reasonable accommodation-/modification for THA staff and for other employment related requests. This means that he or she will receive these requests, gather information, and make the decision.

<p>Voucher Lease & Occupancy Specialists</p> <p>Property Managers</p> <p>Social Service Caseworkers</p> <p>Human Resources Director</p>	<p><i>First Line Staff:</i> These staff are responsible for receiving requests for accommodation/modification from persons within their areas of responsibility. They are responsible for gathering information necessary to assess the request and making a recommendation to the Second Line Staff.</p> <p>They are also responsible for being the THA contact for the requester and guiding that person through the process set out in this policy.</p>
<p>Department Director (or Designee)</p> <p>Human Resources Director (or Designee)</p>	<p><i>Second Line Staff:</i> These staff are responsible for reviewing the information gathered by the First Line staff person in their departments and that person’s recommendation for each request for reasonable accommodation/ modification.</p> <p>Second Line Staff are responsible for making a decision on the request.</p>
<p>Reasonable Accommodation Review Committee</p>	<p>Reviews all denials of reasonable accommodation/modification requests or requester appeals from modified approvals. The members of the Committee are:</p> <ul style="list-style-type: none"> ▶ CRCA, Chairperson ▶ Director of Housing Programs or designee ▶ Director of Real Estate Development or designee ▶ THA staff person chosen by CRCA ▶ Representative of community organization that serves disabled persons, chosen by Executive Director
<p>Executive Director</p>	<p>The Executive Director must approve all accommodations/modifications that cost more than \$ 5,000 in any one year.</p>

5. Definitions	
Disability	<p>“Disability” means the following:</p> <ol style="list-style-type: none"> 1. A physical or mental impairment which substantially limits one or more major life activities; a record of such an impairment; or being regarded as having such an impairment. <p>OR</p> <ol style="list-style-type: none"> 2. The presence of a sensory, mental, or physical impairment that: <ol style="list-style-type: none"> (i) Is medically cognizable or diagnosable; or (ii) Exists as a record or history; or (iii) Is perceived to exist whether or not it exists in fact. <p>A disability exists whether it is temporary or permanent, common or uncommon, mitigated or unmitigated, or whether or not it limits the ability to work generally or work at a particular job or whether or not it limits any other activity within the scope of this chapter.</p> <p>IN EMPLOYMENT: Only for the purposes of qualifying for reasonable accommodation <u>in employment</u>, an impairment must be known or shown through an interactive process to exist in fact and:</p> <ol style="list-style-type: none"> (i) The impairment must have a substantially limiting effect upon the individual's ability to perform his or her job, the individual's ability to apply or be considered for a job, or the individual's access to equal benefits, privileges, or terms or conditions of employment; or (i) The employee must have put the employer on notice of the existence of impairment and medical documentation must establish a reasonable likelihood that engaging in job functions without an accommodation would aggravate the impairment to the extent that it would create a substantially limiting effect. <p>For employment purposes, a limitation is not substantial if it has only a trivial effect.</p>
Impairment	"Impairment" includes, but is not limited to:

	<p>(i) Any physiological disorder, or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitor-urinary, hemic and lymphatic, skin, and endocrine; or</p> <p>(ii) Any mental, developmental, traumatic, or psychological disorder, including but not limited to cognitive limitation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.</p>
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6. Forms Associated with this Policy	
<i>CR-10(1)</i>	<i>Request for Reasonable Accommodation/Modification and Authorization for Release of Information</i>
<i>CR-10(05)</i>	<i>Sample Letter Seeking More Information to Assess Request for Reasonable Accommodation/Modification</i>
<i>CR-10(10)</i>	<i>Request for Information from Third Parties Concerning Reasonable Accommodation/Modification</i>
<i>CR-10(15)</i>	<i>Summary Record of Reasonable Accommodation/Modification and THA Response</i>
<i>CR-10(20)</i>	<i>Approval of Request for Reasonable Accommodation/Modification</i>
<i>CR-10(25)</i>	<i>Initial Denial of Request for Reasonable Accommodation</i>
<i>CR-10(30)</i>	<i>Final Denial of Request for Reasonable Accommodation</i>
<i>CR-10(35)</i>	<i>THA Reasonable Accommodation Review Committee Rules</i>
<i>CR-10(40)</i>	<i>Agreement for Reasonable Accommodation</i>
<i>CR-10(45)</i>	<i>Record of Reasonable Accommodation</i>
<i>CR-10(50)</i>	<i>Reasonable Accommodation Implementation Form</i>

7. Policy

7.1 Obligation to Reasonably Accommodate/Modify

Upon receiving a request to do so, THA will make reasonable accommodation in rules, policies, practices, or manner of its services when such accommodation is necessary to afford a qualified disabled person equal opportunity to use and enjoy THA employment, housing, common areas, programs, or facilities, including public and common use areas.

Upon receiving a request to do so, THA will make reasonable modification to its existing premises if necessary to afford a qualified disabled person full enjoyment of its programs. THA will pay for requested modifications to its property that THA approves pursuant to this policy.

THA's rules, policies, or practices are not required to produce equal results or levels of achievement for individuals with disabilities and non-disabled persons but only must afford disabled persons an equal opportunity to obtain the same result, to gain the same benefit or to reach the same level of achievement.

7.2 Criteria for THA's Obligation To Accommodate or Modify

THA will grant requests for accommodation or modification that are shown with adequate verification to satisfy **all** of the following four criteria.

Criteria 1: Request

THA must receive a request for the accommodation or modification. The request does not have to come from the disabled person in question. Another person may make the request on behalf of the disabled person. The request does not have to be in any particular form. It may be verbal.

Criteria 2: Disability

The accommodation or modification must be for a person who fits the definition of disability. It is not necessary for THA to know the details of a disability. THA will not require a person to grant it access to confidential medical records in order to verify a disability. It is enough to get verification of the manifestation of the disability from someone who is in a position to know. That person need not have a medical degree or a particular expertise. However, THA must have adequate confidence in their judgment and competence. THA's staff may also know enough about a requester to assess whether the person is disabled.

Criteria 3: Necessity for Reasons Substantially Related to the Disability

The requested accommodation or modification must be **necessary** for the disabled person's full enjoyment of THA programs, facilities, or employment, or premises, and the necessity must be substantially related to the disability.

THA is not obliged to provide an accommodation or modification that, although not necessary, would be beneficial or convenient.

THA is also not obliged to provide an accommodation or modification that may be necessary to the tenant but for reasons that are not substantially related to the disability.

Criteria 4: Reasonableness

The requested accommodation or modification must be reasonable. A request is not reasonable if any of the following are true:

(a) **Undue Administrative Burden on THA**

The request would, if approved, impose an undue administrative burden on THA. This may mean that the request would require more staff time than THA has available.

THA will determine on a case by case basis whether a request would impose an undue administrative burden. Relevant factors include: the administrative cost or burden of the requested accommodation in comparison with the administrative cost of regular operation; limits or availability of THA's overall resources; the benefits that the accommodation would provide to the requester, and the availability of other, less expensive alternative accommodations that would effectively meet the requester's disability-related needs.

(b) **Undue Financial Burden on THA**

The request would, if approved, impose an undue financial burden on THA. This may mean that the request would cost money that THA does not have.

THA will determine on a case-by-case basis whether a request would impose an undue financial burden. Relevant factors include: the financial cost of the requested accommodation compared with the cost of the regular operation, availability and limits of THA's overall financial resources; whether THA has specifically budgeted money for the purpose and whether any of that money remains for the fiscal period; the benefits that the accommodation would provide to the requester, and the availability of other, less expensive alternative accommodations that would effectively meet the requester's disability-related needs.

- (c) **Fundamental Alteration in the Nature of THA's Program(s)**
The request would, if approved, fundamentally alter THA's program(s). In the case of a request from an employee, the request is not reasonable if it would not allow the employee to perform the essential functions of his or her job.

If the requested accommodation/modification is not reasonable, THA will explore other accommodation/modifications that would address the person's need and that would be reasonable. If these alternatives are available, THA will offer them.

7.3 Burden of Proof

The person making the request has the burden of showing that the first three of the four criteria in the above section are satisfied. Under the fourth criteria, THA bears the burden of showing that the request is not reasonable.

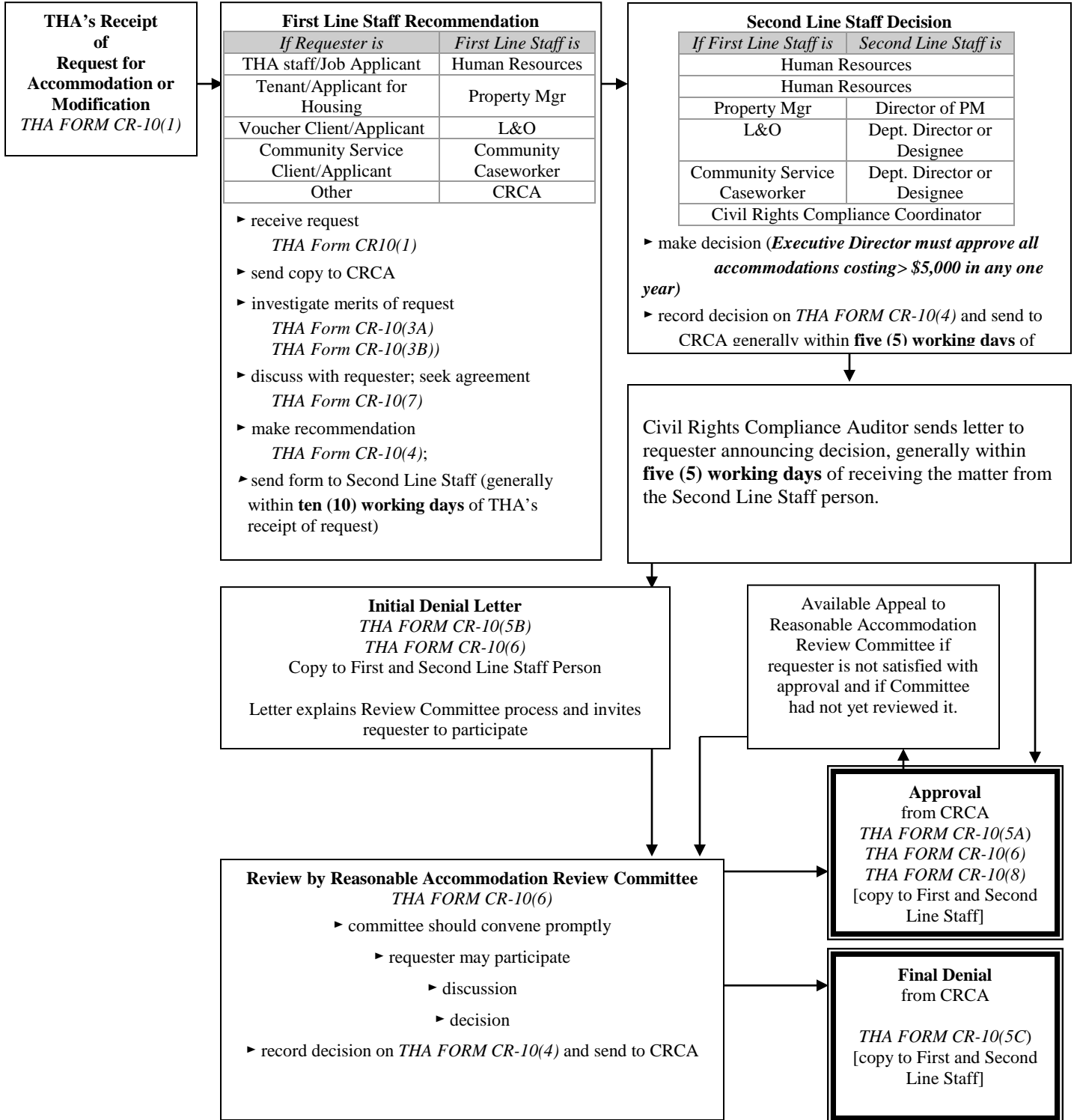
7.4 Review of Reasonable Accommodations/Modifications

All Reasonable Accommodation/modification approvals are subject to THA's later review, modification, or withdrawal. THA may request more information during such reviews to determine the continued need and/or reasonableness of the accommodation. For THA Program participants, THA will review approvals at least once a year during any applicable annual recertification.

8. Procedure

8.1 Outline of Procedure

This graphic is a summary outline of the procedure. Sections below describe the process in more detail.



8.2 THA Staff Responsibilities; Reasonable Accommodation Review Committee

8.2.1 Time Lines in This Policy

This policy sets forth general time lines for each stage of the process. By those time lines, THA will generally give an initial response within twenty (20) working days of receiving a request. However, these are only general guidelines. Several factors will affect how long it should take. **First**, THA should take a much shorter time to answer requests that THA should clearly grant because the basis for them is clear. *E.g*, THA should not need much time to allow a clearly qualified service animal to a tenant who is clearly visually impaired or to approve the installation of a shower grab bar for a tenant who clearly needs one. In these cases, THA staff should speed up each stage of the process to approve the request within a few days. **Second**, THA should speedily respond to a request for an accommodation that also is necessary to address a safety threat. As appropriate in such cases, staff can rely on verbal approval and allow the paperwork of this policy catch up later. **Third**, THA may also require more time than the general time lines set forth in this policy to answer a request that presents hard questions or that is based upon facts that are not clear.

8.2.2 Receiving and Investigating Requests and Making Assessments

The THA staff designated below will have the indicated responsibilities to respond to requests for accommodation/modification.

Person Seeking Accommodation/Modification	FIRST LINE STAFF	SECOND LINE STAFF
	<ul style="list-style-type: none"> ▶ Receive Request ▶ Gather Information ▶ Discuss with Requester ▶ Make Recommendation ▶ Guide requester's through process 	Make Decision and Respond to Request
THA Staff	Human Resources Director [in consultation with Dept. Director]	
Job Applicant	Human Resources Director	
Tenant/Applicant	Property Manager [or designee]	Director of Property Management [or designee]
Voucher Client/Applicant Voucher Landlord	Lease & Occupancy Specialist	Director of Rental Assistance [or designee]
Social Service Client/Applicant	Community Service Caseworker	Director of Community Services [or designee]
Other	Civil Rights Compliance Auditor	

	<i>Executive Director must approve all accommodations costing > \$5,000 in any one year</i>
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8.2.3 *Designation of Reasonable Accommodation Review Committee*

THA shall have a Reasonable Accommodation Review Committee as follows:

(a) Committee Membership

The following persons shall constitute the Reasonable Accommodation Review Committee. This shall be a standing Committee.

- (i) THA Civil Rights Compliance Auditor, Chair and Staff to the Committee
(See THA Policy CR-05, Prohibition of Unlawful Discrimination, Harassment or Retaliation)
- (ii) THA Real Estate Development Director, or designee
- (iii) Director of Property Management; or designee;
- (iv) Another THA staff person (preferably a person who is disabled or has a personal acquaintance with the needs of disabled persons), appointed by the Executive Director or the Civil Rights Compliance Auditor; the Executive Director may change this appointment at any time.
- (v) A representative of a community organization that serves disabled persons, appointed by the Executive Director. The Executive Director may change this appointment at any time.

Anyone participating as a Committee member must have received reasonable accommodation training.

(b) Committee Responsibilities

- (i) To review and adjudicate all denials of requests for accommodation or modification. For its review, the Committee shall use the criteria and procedures set forth in this policy; the committee will make their recommendation to the CRCA for a final decision;

- (ii) To store the records of all reasonable accommodation/modification requests that THA receives, with all associated documentation, and compile the data from these records to show their aggregate numbers, types of requests, outcomes, and other information useful for tracking THA's compliance with this policy. THA's Civil Rights Compliance Auditor shall be the custodian of these records;
- (iii) To monitor THA's compliance with this policy; to report annually on THA's compliance to the Executive Director;
- (iv) To recommend policy changes to the Executive Director and ways to improve THA's compliance with the policy.

8.2.4 *Training for Staff*

All persons designated with responsibilities in this section shall first receive training on the duty of reasonable accommodation/modification.

8.3 How to Request Reasonable Accommodation/Modification

A person seeking accommodation/modification must request it from THA or have someone else request it on his or her behalf.

The request need not be in any particular form. THA will respond to verbal requests. In addition, the person making the request does not have to use any particular words. For example, the person does not have to ask explicitly for "reasonable accommodation."

A person seeking reasonable accommodation/modification may direct his or her request to the First Line staff persons designated above in ¶ 8.2 to receive and investigate requests. Any other staff person receiving a request should direct the request to these First Line staff persons. For example, many tenants will make their request of a maintenance staff person. The maintenance staff should help the tenant direct the request to the property manager. If necessary, the maintenance staff should convey the request him or herself to the property manager.

The person making the request should use *THA FORM CR-10(1) Request for Reasonable Accommodation/Modification and Authorization for Release of Information*. This form shall be available from any THA office. It shall also be part of the orientation material given to staff, tenants, and Voucher holders.

The designated First Line staff person shall offer to help the person fill out the form. If the requester does not wish to use the form or if the request is verbal, the First Line staff person shall fill it out using information the requester provides. The First Line staff person who fills in *THA FORM CR-10(1)* for a person seeking

reasonable accommodation/modification should read it back to the person and verify that it accurately reflects the person's intended request.

The First Line staff person shall remain the requester's guide and primary contact person throughout the process. The First Line staff person shall immediately email notice of the request to the Civil Rights Compliance Auditor. This copy serves to alert him or her about the request so he or she can track it through this policy.

8.4 First Line Staff Person: Gather Information; Discussion with Requester; Make Recommendation (Generally Within 10 working days of request); Guide Requester Through Process

8.4.1 Gather Information

The First Line staff person shall gather the information necessary to assess the request under the criteria in ¶ 7.2.

(a) Sources of Information

The following will be common sources of Information:

(i) ***Information that THA already possesses***

THA may already possess pertinent information. For example, THA staff may already be quite familiar with a tenant or Voucher holder's disabilities. THA is free to use this information to support or refute the request.

(ii) ***Disabled Person***

The disabled person will usually know better than others the extent of his or her disabilities and related needs. The staff person should use *THA FORM CR-10(5) Sample Letter Seeking More Information to Assess Request for Reasonable Accommodation/Modification* to seek more information from the requester.

(iii) ***Third Parties***

Information from third parties is often helpful or necessary. Social service providers or medical providers, in particular, may have information needed to assess a request. To seek third party information, staff may use *THA FORM CR-10(5) Sample Letter Seeking More Information to Assess Request for Reasonable Accommodation/Modification*. The staff person should enclose the authorization for the release of information that the requester signed as part of *THA FORM CR-10(1)*. If the written information from a third party is unclear or needs clarification, staff should call them directly.

(b) What information to seek and what not to seek

THA should seek only what it needs to know in order to assess the request for reasonable accommodation. *E.g.*, that someone is disabled under the definition; that the requested accommodation is necessary for reasons related to the disability.

THA does not need, and should not ask to know, the type of disability or diagnosis. The requester may volunteer this information, which may indeed be helpful to assess the request.

8.4.2 *Interactive Discussion*

The First Line staff person shall affirmatively engage the requester or his or her representative in an interactive discussion for the following purposes:

- (a) To collect information that the requester has to provide;
- (b) To help THA understand the requester's needs and proposals;
- (c) To help the requester understand THA's needs and requirements;
- (d) To fully explore all alternatives and seek an agreement on a solution. THA may propose alternative ways to address the disabled person's needs. The goal is to find a solution for genuine needs. Agreements should be put in writing. For this purpose, staff should use *THA FORM CR-10(40) Agreement for Request Accommodation/Modification*. Second Line Staff must sign all agreements for THA. NOTE: the Executive Director must approve agreements that cost more than \$ 5,000 in any one year.

8.4.3 *Recommendation and Report*

The First Line staff person will record the information and the various proposals discussed along with his or her recommendation on *THA FORM CR-10(4) Summary Record of Reasonable Accommodation Request and THA Response*. He or she shall forward the form and accompanying information to the Second Line staff person designated to make the decision. He or she shall try to do so within five (5) working days from the date THA received the request. If the request is urgent, he or she will try to do this more quickly.

8.5 Second Line Staff Person; Decision

(Generally within 5 Working Days of Recommendation from First Line Staff)

Using the process below, the Second Line staff person shall make a decision about the request. In the normal course, he or she will do this within five (5) working days from the receipt of the First Line staff person's recommendation and within that time give the CRCA the record of the decision on the same *THA FORM CR-10(4) Summary Record of Reasonable Accommodation Request and THA Response* that the First Line Staff person used.

The CRCA will send the requester written notice of the decision.

If the Second Line Staff Person decides that THA needs information to assess the request, he or she shall seek it, generally by asking the First Line Staff Person to

collect it. In any event, the Second Line Staff Person is responsible for making and monitoring arrangements to procure the needed information and making a decision when the information arrives or doing without it if it proves unavailable within a reasonable time.

There are three types of decisions:

- (a) Approval of request: In this event, the Second Line Staff Person shall be responsible for seeing to implementing the approved accommodation and modification and documenting that it gets done.
- (b) Approval of alternate accommodation/modification:
- (c) Denial, subject to review by the Reasonable Accommodation Review Committee:

The CRCA may reverse or modify a decision, generally on legal grounds.

8.6 Executive Director Approval

The Executive Director, of his or her designee, must approve all accommodations/modifications that cost more than \$ 5,000 in any one year.

The Executive Director has the authority to direct the approval or denial of any request.

8.7 CRCA Response to Requester (Generally Within 5 Working Days of Second Line Staff Decision)

The Civil Rights Compliance Auditor shall report the decision to the requester using the appropriate forms as follows:

- (a) *THA FORM CR-10(20) Approval of Request;*
THA FORM CR-10(6) THA Reasonable Accommodation Review Committee Rules

The approval may be for an alternative form of accommodation/modification. The requester may not be satisfied with the alternation. He or she may request an informal review before the Reasonable Accommodation Review Committee to review the matter. He or she may participate in the review.

- (b) *THA FORM CR-10(25) Initial Denial of Request;*
THA FORM CR-10(6) THA Reasonable Accommodation Review Committee Rules

The Reasonable Accommodation Review Committee reviews all denials. The requester may participate in its review.

A response may be a mix of both approval and denial. The CRCA should use that form that seems to fit best. Either form allows the requester to seek the Committee's review.

The CRCA will then send a copy of the letter to the First and Second Line Staff Person. This will inform them and help them learn.

8.8 Reasonable Accommodation Review Committee

THA's Reasonable Accommodation Review Committee will review all denials and all appeals from approvals of alternative accommodation. It shall apply the criteria under ¶ 7.2.

8.8.1 Committee Process

- (a) The CRCA shall convene the Committee whenever necessary under this policy.
- (b) The Committee Chairperson shall preside. In his or her absence, a Review Committee member shall preside.
- (c) Three Committee members shall constitute a quorum.
- (d) The Second Line Staff Person whose decision is being reviewed will present the decision and the basis for it. If he or she is also a Committee member he or she shall not vote in the Committee's decision. In that event, the CRCA may appoint a temporary replacement on the Committee for the case.
- (e) The Committee shall decide by a majority vote of members voting; a tie vote upholds the decision under review. PROVIDED that the Civil Rights Compliance Auditor may direct a reversal of a denial on legal grounds without regard to the majority vote.
- (f) The Committee's process shall be informal and conducive to a speedy and informed decision.

8.8.2 If Requester or His or Her Representative Chooses to Participate

If the requester or his representative chooses to participate in the Committee's review, then the following additional procedures will apply:

- (a) The requester may appear before the Committee in person or through a representative that he or she affirmatively authorizes.

- (b) The Committee shall schedule its meeting so as to reasonably accommodate the schedule of a requester and/or his or her representative.
- (c) The requester or his or her representative may, in advance of the Committee's meeting, review and copy at THA expense any documentation that the Committee will rely upon in the matter.
- (d) The requester or his or her representative may make a presentation in support of the request.
- (e) The Second Line Staff Person for the matter shall then present the basis for the denial.
- (f) The Committee may consider new information presented at the review.

8.8.3 *Committee's Decision*

The Committee shall make a decision as promptly as reasonably possible after the conclusion of the review. The Civil Rights Compliance Auditor may overrule the Committee. The Executive Director must approve any accommodation/modification that costs more than \$ 5,000 in any one year.

It shall record its decision on *THA FORM CR-10(15) Summary Record of Reasonable Accommodation Request and THA Response*.

The Civil Rights Compliance Auditor shall report the Committee's decision to the requester using the appropriate form:

- THA FORM CR-10(20) Approval of Request*
- THA FORM CR-10(30) Final Denial of Request*

This time the CRCA need **not** enclose *THA FORM CR-10(25)*.

8.8.4 *Final Decision*

The Committee's decision shall be final subject to the authority of the Civil Rights Compliance Auditor and the Executive Director to overrule its decision.

8.8.5 *Other Grievance Processes*

THA will use the procedures in this policy to respond to requests for reasonable accommodation/modification. Some persons also have access to other grievance processes within THA: *i.e.*

Tenants Voucher Holders	<i>THA POLICY PM-10.200 Grievance Procedure for Tenants, Voucher Holders and Applicants</i>
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Persons with access to these other THA grievance processes may **not** use them merely because they are dissatisfied with the answer that emerged from this policy's procedures in an attempt to get a different answer. Instead, persons may use the other processes only to complain that THA failed to follow the procedure in this reasonable accommodation/modification policy. In that event, the other process may direct THA to try again under the procedures of this policy, correcting any failure of process.

8.9 Review of Approvals

All approvals are subject to review, modification or withdrawal to account for a change in circumstances. THA will review them at least annually or whenever it has reason to believe a change in circumstances may warrant modification or withdrawal of an approved accommodation/modification. For THA Program participants, THA will review approvals at least once a year during any applicable annual recertification.

8.10 Storage of Records and Compilation of Records

8.10.1 Storage of Records

THA's Civil Rights Compliance Auditor shall be the custodian of all documents pertaining to the request and THA's response to it, including the following forms pertinent to a request:

- (a) THA Form CR-10(1) Request for Accommodation
- (b) THA Form CR-10(3) Request for Information Concerning Request for Reasonable Accommodation/ Modification
- (c) THA Form CR-10(4) Summary Record of Reasonable Accommodation Request and THA Response
- (d) THA Form CR-10(5) Response to Request for Reasonable Accommodation/Modification
- (e) THA Form CR-10(6) Section 504 Review Decision
- (f) THA Form CR-10(7) Agreement on Request for Accommodation/Modification
- (g) THA Form CR-10(8) Record of Reasonable Accommodation

The CRCA shall devise a confidential storage and retrieval system for this material.

8.10.2 Individual Employee, Tenant or Case Files

If THA grants a reasonable accommodation request, only a copy of *THA Form CR-10(8) Record of Reasonable Accommodation* shall go into the requester's personnel file/ tenant file/ voucher client or service file. The form shall be placed appropriately in the file to provide notice of any approved accommodation so THA staff consulting the file is aware of the accommodation.

If THA denies an accommodation, the only record shall be the documents that the CRCA shall hold.

8.10.3 Confidentiality of Records

All records gathered in response to a reasonable accommodation request are confidential. These records shall be accessible only to THA staff with responsibilities under this policy that are pertinent to the person who made the request. THA will not share these records with people outside the agency except with the requester's permission or as required by law.

8.10.4 Compilation of Records

THA's Civil Rights Compliance Auditor shall compile the aggregate data from these records to show total numbers, types of requests, outcomes, and other information useful for tracking THA's compliance with this policy.

8.11 Review of Policy and Annual Report

See THA Policy CR-05 Prohibition of Unlawful Discrimination, Harassment, and Retaliation, 8.5.

9. Guidelines and Examples for Reasonable Accommodation/Modification

Below are some general guidelines and examples in applying the reasonable accommodation policy.

GENERAL GUIDELINES

1 Interactive and Good Faith Discussions to Find a Solution

THA staff and the requester must work together in an “interactive” process to identify genuine needs and seek solutions. They both must make a good-faith effort to do this.

- ▶ THA staff should make the process as easy as possible for the requester to use;
- ▶ THA staff should make clear that THA takes its obligation seriously and remains ready to listen and to try and understand the request. The best way for THA staff to start this discussion may be simply to ask, “What can I do for you?”
- ▶ The requester must cooperate by providing information that will help THA understand and assess the request under the criteria of this policy.
- ▶ Both staff and the requester should show flexibility, creativity, and good-will.

2 THA Will Treat Every Request Individually

THA will assess each request for accommodation or modification individually. Whether THA should approve or deny a request usually depends on facts particular to the individual requester’s circumstances including the financial, administrative and programmatic limitations on THA at the time. There are few standard formulas. What one person needs will be different from what other persons need. Similarly, THA’s financial and administrative abilities will also vary. What is reasonable in one situation or at one time may be unreasonable in another.

3 The Views Or Needs Of Other People

In general, THA will not consider what other people may think about the request. For example, other people may feel that THA shows favoritism by allowing a disabled person to keep a service animal that is larger than the pet policy would otherwise allow to non-disabled persons. Similarly, they may object if THA suspends an eviction for lease violations to give the disabled person a reasonable chance to control a problem that results from the disability. They may feel this is unequal treatment since the same behavior would result in their own eviction. These sentiments are not a reason to deny the disabled person’s request.

However, other people’s needs are a legitimate part of the assessment of whether a request is reasonable. For example, the safety and peaceful enjoyment by other residents are fundamental attributes of THA’s housing. An accommodation is not reasonable if it would jeopardize them.

Similarly, THA cannot deny a request for fear that an approval would encourage other people to ask for the same accommodation. Instead, THA should assess each request individually. It may be possible that too many requests would become unaffordable, too administratively burdensome, or work a fundamental alteration in the nature of THA’s employment or

GENERAL GUIDELINES

	program. However, THA should not deny a request by presuming that this will happen.
4	What if the requester does not provide enough information to support the request? The requester has the burden of providing the information that will support the request. THA will reasonably help the requester do this. However, after a reasonable effort or period of time, THA will make a decision on the request based upon the information that is available. If the information is not sufficient, THA will deny the request. The requester can always submit another request later with more information.
5	What if more than one accommodation would work? If more than one reasonable accommodation/modification would fulfill the needs of the disabled person, THA and the requester will try to agree on which one to use. If there is no agreement, THA may choose the option that is less burdensome or expensive, as long as it meets the disabled person's needs.
6	Verification THA is responsible for determining that each request meets the criteria necessary for approval. THA will do this by requiring adequate verification from sources it deems to be credible. There are no hard rules for this assessment. Generally, THA must be satisfied that a person who is providing the verification must have adequate knowledge of the facts and adequate skills or experience to offer a useful assessment.

HOW TO REQUEST REASONABLE ACCOMMODATION/MODIFICATION	
1	THA's legal obligation to accommodate a disability arises when THA receives a request to do so. Without a request, there is no obligation.
2	A request does not have to be in any particular form. It can be written or verbal. However, THA staff should help the person put the request in writing using the appropriate form. This form helps to insure a record of the request and prompts a person to provide the information that THA will need to assess the request. If the person does not want to fill out the form, the staff should fill out the form to create a written record of the request. The staff should make sure that the form accurately reflects the person's intended request.
3	A request does not have to contain or convey any special words. For example, a person does not have to use the words "reasonable accommodation."
4	A request does not have to come from the disabled person. Another person may make the request on behalf of the disabled person. However, in these cases, THA must be satisfied that the disabled person has authorized the other person to speak for him or her. THA staff should also be alert to situations where a person may appear to need help even if the person does not request it. In those situations, THA staff should ask if they would like assistance.

IS A PERSON DISABLED?	
1	Whether or not a person is disabled is frequently evident to THA staff. <i>E.g.</i> , <ul style="list-style-type: none"> ▶ The person receives income conditioned on a finding of disability (Social Security Disability, SSI, GAU, residence in housing for disabled persons) ▶ THA's staff may have sufficient acquaintance with the person to know that the person is disabled. <i>E.g.</i>, the person may use a wheelchair.
2	If the disability is not evident, THA needs verification from someone who has both the competence and the necessary acquaintance with the person to make an informed assessment.
3	THA is only interested to know if the person fits the definition of disability. It is generally unnecessary to know the type of disability or the specific condition or diagnosis.

IS THE REQUESTED ACCOMMODATION/MODIFICATION RELATED TO THE DISABILITY?	
1	A request must be related to the disability. For example, a sight-impaired employee may reasonably request a special computer monitor to allow him or her to perform the essential functions of the job. It is much less clear why the same employee needs a separate office away from office traffic. A separate office may be beneficial or even necessary for the person to perform the work. However, THA would not approve this request without a showing that is necessary for reasons related to the disability.

IS THE REQUESTED ACCOMMODATION/MODIFICATION NECESSARY?	
1	The requested accommodation must be necessary. If the requester is a THA employee, it must be necessary to allow him or her to perform the essential functions of the job. If the requester is a tenant, the requested accommodation must be necessary to allow him or her equal opportunity to use THA's housing or other services. An accommodation or modification may be beneficial or convenient. That is not enough, however, to oblige THA to approve it.

IS THE REQUESTED ACCOMMODATION/MODIFICATION REASONABLE?
THA shall not grant a request for unreasonable accommodation/modification. A request is not reasonable if any of the following are true:
Undue Administrative burden to THA
THA is not obliged to approve a request that would impose an undue administrative burden. In general, this means that it would be too hard to do or would require work that THA's staff does not have the time to do.
Undue Financial burden
THA is not obliged to approve a request that would impose an undue financial burden. In general, this means that it would cost too much.

Fundamental alteration in the nature of the job or THA's program.	
The law does not oblige THA to fundamentally change a job or the nature of its services even if the change would be necessary to a disabled person.	
<i>Employment</i>	
1.	Each job at THA has essential functions. The adequate performance of these functions is fundamental to THA. THA will reasonably accommodate disabled employees in ways that will allow them to adequately perform the essential functions of their job. This means that THA will consider changing aspects of their job or their working environment. Perhaps some additional equipment will be necessary and effective for this purpose to allow a sight or hearing impaired person perform the essential functions of a job. A person who has to receive medical treatment on a particular schedule may still be able to perform the essential functions of the job with a change in the working schedule. THA will not be able to accommodate a disabled employee who, even with reasonable accommodation, cannot adequately fulfill the essential functions of the job.
2.	THA will not be able to create a new job or vacancy for the purpose of accommodating a disabled employee.
<i>Tenancy or Services</i>	
Below are examples of some fundamental features of THA's housing and service programs. THA will not be able to offer accommodations that alter them.	
1.	<p>Rent Receiving full rent on time is fundamental to THA's programs. Rent is a main source of income that allows THA to serve its mission. THA will consider reasonable accommodations that are necessary and effective in allowing a person to pay their rent on time and in full. <i>E.g,</i></p> <ul style="list-style-type: none"> ▶ accepting vouchers or payments from third persons who are helping the tenant manage their finances or affairs; ▶ changing the date that rent is due so that the tenant's rent is not habitually late on account of disability checks regularly arriving after the 1st of the month; ▶ accepting installment payments on rent arrears that arose from a mental health crisis if there is reasonable assurance that the person will be able to pay the amount due within a reasonable time. If this happens more than once, allowing installment

	payments a next time may be unreasonable.
2.	<p>Complying with the lease A tenant's compliance with the lease is fundamental to THA's program. THA will consider reasonable accommodations that are necessary and effective in allowing a tenant to comply. <i>E.g.</i></p> <ul style="list-style-type: none"> ▶ <i>Sanitation:</i> A tenant's unit may have become unsanitary for reasons related to a disability. Perhaps the tenant lacks the physical or mental ability to comply, yet with supportive services would be able to do so. If the tenant can arrange for those services and cooperates with them to make them effective, THA will consider delaying any eviction action to give the services a chance to work. Prior failures of services to work in this way or prior failures of the tenant to cooperate with service providers may make it unreasonable to give the tenant another chance.
3.	<p>No Supportive Services THA does not provide in-home care or other services designed to allow disabled persons to live independently. Providing such services would be a fundamental change in THA's program. THA will not be able to offer such services as an accommodation.</p>
4.	<p>Criminal Activity, Safety and Rights of Others The following are fundamental to THA's programs:</p> <ul style="list-style-type: none"> ▶ prohibition of criminal activity ▶ safety of all tenants, staff and neighbors ▶ the rights of other tenants to the peaceful enjoyment of their homes ▶ protecting THA's property from damage <p>A tenant may have threatened these fundamentals for reasons related to a disability. For example, he or she may have exhibited threatening behavior to neighbors because he or she needs medication for a mental illness. Taking the medications will effectively control the behavior. THA will consider a request to forbear from eviction on the condition that the tenant cooperate with a prescribed treatment plan. In such cases, THA will require adequate assurance that the treatment plan will work to prevent recurrence of the problem and that the tenant will comply with the plan. Past failures to do so may make another chance unreasonable.</p>
5.	<p>THA's Compliance with Program Goals or Legal Requirements THA's compliance with the policy and legal requirements of its housing or service programs is fundamental to those programs. <i>E.g.</i></p> <ul style="list-style-type: none"> ▶ income restrictions that reserve housing or housing assistance to persons of specific incomes; ▶ requirements for periodic verification of income and family composition; ▶ rules governing waiting lists for housing assistance set forth in THA's annual plan. <p>In general, THA will not be able to waive these fundamental attributes of its programs in</p>

	ways that would put THA in violation of the laws or contracts that govern its programs.
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SOME SPECIFIC EXAMPLES

Service or Companion Animals

In general, animals can be necessary to disabled persons in two ways. **First**, the disabled person may need a trained service animal to assist with the person's specific disability, *e.g.* A guide dog for a person with visual impairments. In this event, the person will have to verify that the animal is trained for the purpose. **Second**, the animal may be necessary as a companion or coping mechanism for a person disabled by a mental or emotional impairment. Such "companion animals" do not need specific training. In either case, the person will have to verify their need for the animal. A person can verify this in varied ways. The general discussion in § 8.4.1 applies.

In either case, the person will not have to pay the pet deposit or other fees under THA's pet policy. However, the person must comply with those other aspects of the pet policy that do not unreasonably interfere with the use of the animal to address the need arising from the disability. For example:

- ▶ A disabled tenant may need a companion animal but will probably not need an animal that violates the pet policy's restrictions on size and breed. The question becomes harder if a disabled person needing a companion animal already has one when he or she moves into THA's housing. In such a case, he or she may already have a long-term bond with the animal that is necessary to continue for reasons related to disability. In this case, the issue becomes whether the animal's size or breed are such as to make it unreasonable for THA to allow.
- ▶ A disabled tenant must still register the animal under the THA pet policy, have it spayed or neutered and licensed as necessary under local law.
- ▶ A disabled tenant is still responsible for the animal's behavior, care and sanitation so as to comply with the lease standards.

Communication Aids

To help THA communicate with disabled persons, THA will offer appropriate aids where necessary to afford a disabled person an equal opportunity to participate in and enjoy the benefits of THA's programs or activities. THA will readily provide the following:

- ▶ additional explanation of program rules;
- ▶ offer information in different ways (*e.g.* verbally, larger written type, plainer language; sign language interpreter or reader);
- ▶ exchange information with a representative or contact person that the disabled person designates for the purpose;
- ▶ Where a person communicates by telephone, THA will when necessary use telecommunication devices for deaf persons (TDD) or other equally effective ways to communicate.

See 28 C.F.R. § 35.160-.164; 24 C.F.R. § 8.6.

Requested Modifications to Dwelling Units	
	<p>A disabled person may request THA to modify his or her dwelling unit in ways that are necessary to make the unit accessible to him or her. At its own expense, THA will either (i) transfer the person to an available accessible unit or (ii) make the necessary modifications to the present dwelling unit if doing so does not impose an undue financial or administrative burden or fundamentally alter the nature of its housing program.</p> <p>THA will make the reasonable modification to the present unit if (i) there are no other accessible units available within a reasonable time period; (ii) if the transfer would impose an unreasonable hardship to the tenant or applicant; or (iii) the modification would make the unit significantly more accessible for future disabled occupants of the unit.</p>
Assignment or Transfer to an Accessible Unit	
	<p>Assignment or transfers of persons to units designed to be accessible to persons with disabilities is governed by <i>THA Policy PM-10.34</i>.</p>
Waiting List	
	<p>THA removes persons from its waiting lists who do not respond to THA's requests for information or updates. If the applicant did not respond because of a family member's disability, THA will reinstate the family to its former position on the waiting list.</p>
Transportation	
	<p>If THA is providing transportation to functions or activities, on request it will provide accessible transportation to accommodate persons with disabilities and their aides.</p>
Live-in Aides	
	<p>Live-in aides are governed by <i>THA Policy PM-10.30</i>.</p>