DISABILITY LAW COLORADO™
Protecting the rights of Coloradans of all ages since 1976

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Please read the following information on mutual rescissions in housing and requesting a reasonable accommodation. For Disability Law Colorado to consider your case for direct representation, you must FIRST follow the reasonable accommodation steps set out below.

Federal and State Housing Law

In 1988 Congress amended the Fair Housing Act with the Fair Housing AmendmentsAct ("FHAA") of 1988. The FHAA specifically includes protection for people with disabilitiesand defines a disability or "handicap" as: (1) a physical or mental impairment which substantially limits one or more of [a] person's major life activities; (2) a record of having such an impairment; or (3) being regarded as having such an impairment.[1]

As part of the protections for people with disabilities, the FHAA mandates that landlords make "reasonable accommodations" in "rules, policies, practices, or services, when such accommodations may be necessary to afford [a disabled] person equal opportunity to use and enjoy a dwelling." Courts have generally agreed that landlords will often have to shoulder certain costs relating to requests for reasonable accommodations as long as they are not unduly burdensome. Under the FHAA, there is a statutory right to a reasonable accommodation upon proof of a disability and an appropriate request. Similarly, the Colorado Anti-Discrimination Act ("CADA") prohibits discriminatory housing practices, including a housing provider's refusal to provide a reasonable accommodation.

Mutual Rescission as A Reasonable Accommodation

After a tenant has made a reasonable accommodation request with the appropriate documentation, a landlord should either approve the request or engage in an interactive process with the tenant in order to find a reasonable accommodation that works for both parties.

If there are no satisfactory reasonable accommodations, then a landlord may have to grant a mutual rescission (early termination of a lease with no penalty to either side) as a reasonable accommodation. Typically, this is a last resort. If you are thinking of seeking a mutual rescission, then you should make sure you have another place that you can live before making your request. You can request the termination of the lease to occur on a certain date.

Historically, a mutual rescission has been a difficult accommodation to get. However, because of the rental market in many parts of Colorado, landlords can often easily get a new renter with minimal expense and may even be able to charge more for a new lease. This makes the accommodation more reasonable and means that landlords are more willing to give this reasonable accommodation. However, the tight rental market also means it is more important to make sure you have another place to live lined up.

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[1] 42 U.S.C.A. §3602(h).

Requesting a Reasonable Accommodation
Please complete these steps as soon as possible

The FHAA does not require a request for a reasonable accommodation to be made in any particular manner or at a particular time. A resident or applicant for housing makes a reasonable accommodation request whenever they make it clear to the housing provider that they are requesting an exception, change, or adjustment to a rule, policy, practice, or service because of their disability. This request can be made by a family member or someone who is acting on their behalf.

Although not required by law, a request for a reasonable accommodation should be in writing.

1. The housing provider may ask for disability-related information that:
    a. Is necessary to verify that the person has a physical or mental impairment thatsubstantially limits one or more major life activities or a record thereof;
        i. A doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability may provide verification of a disability. Typically, an individual's medical records or detailed information about the resident's disability is not necessary.
    b. Describes the needed accommodation; **and**
    c. Shows the relationship between the person's disability and the need or the requested accommodation (called a "nexus").
2. Include in your letter that you are requesting a written response to the reasonable accommodation request within 10 business days.
3. Make sure to sign and date your letter. Keep a copy of the letter for your records.
4. If the accommodation is not granted after ALL of the above steps are followed, please call Disability Law Colorado to discuss direct representation.

*** If a person's disability is obvious, or otherwise known to the provider, and if the need for the requested accommodation is also obvious or known, then the housing provider may not request any additional information. (i.e. – A blind resident who uses a guide dog)

*** If the disability is known or obvious but the need for the accommodation is not, the provider may request only information that is necessary to evaluate the disability-related need for the accommodation.

See our Fact Sheets, including our in-depth Housing Packet, at: http://www.disabilitylawco.org/resources/fact-sheets

Sample Letter to Housing Manager/ Landlord Requesting a Reasonable Accommodation for Mutual Rescission

Mr. / Ms. [*Name of Building Manager*] [*Housing Provider Name*]
[Street *Address*]
[City], CO [Zip Code]

Re: Request for Reasonable Accommodation – Mutual Rescission of Lease

Dear Mr. / Ms. [*Name of Building Manager*]:

I live at [*address*] in [*unit number*] and have lived there since [*date*]. I am a qualified individual with a disability, as defined by the Fair Housing Amendments Act of 1988, because I have a substantial limitation in one or more major a major life activity. **[Briefly describe the disability and substantial limitation, i.e., mobility impairment which makes access your apartment common areas difficult because you must go up several steps]**. Because of my substantial impairments, I am considered a person with a disability pursuant to the Fair Housing Act ("FHA") and the Colorado Anti-Discrimination Act ("CADA"). 42 U.S.C. §3602(h); C.R.S. §24-34-501(1.3)(a).

Because you are unable to provide a reasonable accommodation that would allow me to fully use and enjoy my housing, I am requesting a mutual rescission as a reasonable accommodation. I moved into [*address*] on [*date*]. **[Describe issue or barrier in housing that cannot be corrected through a reasonable accommodation]**. As a result, the only way I can be accommodated is to receive a mutual rescission of my lease so that I can move into alternative housing.

I am a person with a disability. A mutual rescission of my lease would be reasonable considering a number of factors. First, **[Briefly describe the disability and substantial limitation, i.e., mobility impairment which makes access your apartment common areas difficult because you must go up several steps]**. Second, **[address or location]** is an extremely desirable location for renters and has high demand and low vacancy. As such, upon rescission of my lease, you should easily be able to relet my apartment.

My inability to fully use and enjoy my apartment and the landlord favored state of the rental market support my request for a mutual rescission of my lease effective as of **[date you would like to break the lease]**. Because of these

factors, this request should be granted with no additional fees or charges. Under the provisions of the Fair Housing Act, you have an obligation to provide a prompt response to my request for a reasonable accommodation. For this purpose, I believe ten (10) business days is sufficient. If you have any questions about my request, you can contact me in writing or by phone; however, I request that any response be made to me in writing. Thank you very much.

Sincerely,

[*Your name*]
[*Your full address*]
[*Your phone number*]
[*Your email address*]