



LANDLORD
RESOURCE
NETWORK



Guide to Fair Housing & Reasonable
Accommodations 201
MN NAHRO
October 13, 2022



Bridget Brine
Landlord Resource Network

bbrine@landlordresource.net

612.315.9212

Goals

- Make you more effective by understanding how to legally and efficiently handle common problems.
- Learn legal nuances to help avoid common pitfalls which often plague landlords.
- Understand when to ask for help.

Common Pitfalls for Landlords

- Underestimating the diligence and resources available for tenants.
- Lack of responsiveness to tenant complaints and requests, which allows problems to spiral.
- Not doing the math before making decisions with tenant issues.
- Not knowing when to ask for help.

Topics

- Overview of Fair Housing Act
- Protected Classes
- What is a Disability
 - Reasonable Accommodations
 - Reasonable Modifications
 - Limitations and Exceptions
 - Service and Support Animals
- Investigations
- Penalties
- Policy

Fair Housing Act



- The goal of the Fair Housing Act (FHA) is to protect buyers and renters from seller or landlord discrimination.
- Enacted as Title VIII of the Civil Rights Act of 1968.
- Enforced by the United States Department of Housing and Urban Development's (HUD) Fair Housing Housing and Equal Opportunity Office (FHEO).

Protected Classes

The Federal Fair Housing Act and the Minnesota Human Rights Act prohibit housing discrimination based on:

- Race
- Color
- Religion
- Sex
- Disability
- Familial Status
- National Origin



- Sexual or Affectional Orientation
- Ancestry (Minneapolis and Saint Paul)
- Marital Status
- Receipt of Public Assistance
- Age
- Creed
- Hairstyle and texture

Fair Housing Act Prohibitions

- Covers all housing transactions and services including advertising, rentals, sales, lending and insurance, as well as harassment.
- Prohibits using discriminatory advertising or any other notice that indicates a limitation or preference or intent to make any limitation, preference, or discrimination.
- Essentially covers EVERYTHING. If you treat ANYONE differently on the basis of being a member of a protected class you are violating fair housing laws.

Example

White Caucasian tenant does not get along with her next-door neighbors in the building who are of Russian descent. Both tenants complain about each other. Tensions escalate. One tenant plays loud music and pounds on the shared wall between the units all night. The other tenant slashes the other tenant's tires. Both tenants obtain HRO against each other.

How do you handle the situation?



Disabilities

FHA prohibits **discrimination** because of a handicap of:

- a) The person interacting with the provider
- b) A person residing in or intending to reside in that dwelling after it is rented, or
- c) Any person associated with that person.

Essentially applies to anyone associated with tenants, or prospective tenants.



Disability Discrimination

- A refusal to permit, at the expense of the disabled person, **reasonable modifications** of existing premises if such modifications may be necessary for full enjoyment of the premises
- A refusal to make **reasonable accommodations** in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling
- Design and Construction Requirements (after 1991)

What is a Disability?

- 1) a physical or mental impairment which substantially limits one or more of such person's major life activities,
- 2) a record of having such an impairment, or
- 3) being regarded as having such an impairment.

But does not include current, illegal use of or addiction to a controlled substance.

What is a Physical or Mental Impairment?

The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as:

- orthopedic, visual, speech and hearing impairments,
- cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis,
- cancer, heart disease, diabetes, Human Immunodeficiency Virus infection,
- mental retardation, emotional illness, drug addiction (other than addiction caused by current, illegal use of a controlled substance) and alcoholism.

“Substantially Limits”

Significant; To a large degree

“Major Life Activity”

Activities that are of central importance to daily life, such as:

Hearing

Walking

Breathing

Performing manual tasks

Caring for one's self

Learning

Speaking

Example

Tenant suffers from hemochromatosis, that prevents him from working or living alone. He asked if he could terminate his lease early and provided his doctor's letter regarding his condition. He stopped living at the apartment prior to the end of the release date, but he had not moved his car from the lot. His car was towed.

Did the tenant make a reasonable accommodation request for his car?



Information Requests

- A provider is entitled to obtain information to evaluate if a requested reasonable accommodation or modification may be necessary because of a disability.
- A housing provider may request reliable disability-related information that
 - 1) Is necessary to verify that the person meets the Act's definition of disability,
 - 2) Describes the needed accommodation or modification, and
 - 3) Shows the relationship between the person's disability and the need for the requested accommodation or modification.
- If disability is obvious or need is readily apparent, no further inquiries may be made.

Reasonable Accommodation:

a change in the rules, policies, practices or services



- A change, exception, or adjustment to a rule, policy, practice, or service that may be **necessary** for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces.
- To show that a requested accommodation may be necessary, there must be an identifiable relationship, or nexus, between the requested accommodation and the individual's disability.
- Costs associated with reasonable accommodations are typically the responsibility of the housing providers.

The Analysis

1. Has a request for a reasonable accommodation been made by tenant or on tenant's behalf?
2. Is there a disability?
3. Is there a relationship or nexus between the disability and the accommodation requested?
4. Is the request reasonable?

All yes? Must comply with request.

HANDICAPPED
PARKING



Example

A housing provider provides a handicapped parking place to a tenant. The tenant allows her child to park in the spot when visiting.

What should the landlord do?

Service and Support Animals

One common type of reasonable accommodation presented to landlords is a tenant's request for an emotional support or service animal.



Service and Emotional Support Animals

Service Animals

- Dogs* that are individually trained to do work or perform tasks for people with disabilities.
- The work or task a service dog does must be directly related to the person's disability (physical, sensory, psychiatric, intellectual or mental).

Emotional Support Animals

- Provides a benefit to an individual with a mental or psychiatric disability.
- No specialized training or certifications needed.



Minnesota Pets for Disabled Tenants

- Multi-unit residential building
- Tenant of a disability accessible unit
- Tenant/unit receives subsidy
- Health/Safety/Noise
- Damage deposit
- Allowed to have:
 - 2 birds, or
 - 1 spayed/neutered dog
 - 1 spayed/neutered cat

MN Service and ESA Documentation

Landlord may require tenant to provide supporting documentation for each service animal or ESA:

- Supporting documents from a licensed professional confirming the tenant's disability and relationship between the disability and the need for a service animal or ESA
 - Except when readily apparent or already known by landlord
- No additional fee, charge or deposit
- Tenant is responsible for damages caused by service animal or ESA

Licensed Professional to Document ESA

- Licensed by Board of Medical Practice
- Physician
- Nurse
- Psychologist
- Licensed mental health professional
- Social worker
- Other licensed professional





Example

Interracial couple live in an apartment in a predominantly Caucasian community. Their neighbors have cats but they are told that they are not allowed to have a pet pursuant to the lease. The couple complains that their neighbor's units are repaired while they have to make multiple repair requests. A neighbor threw a chair at their vehicle.

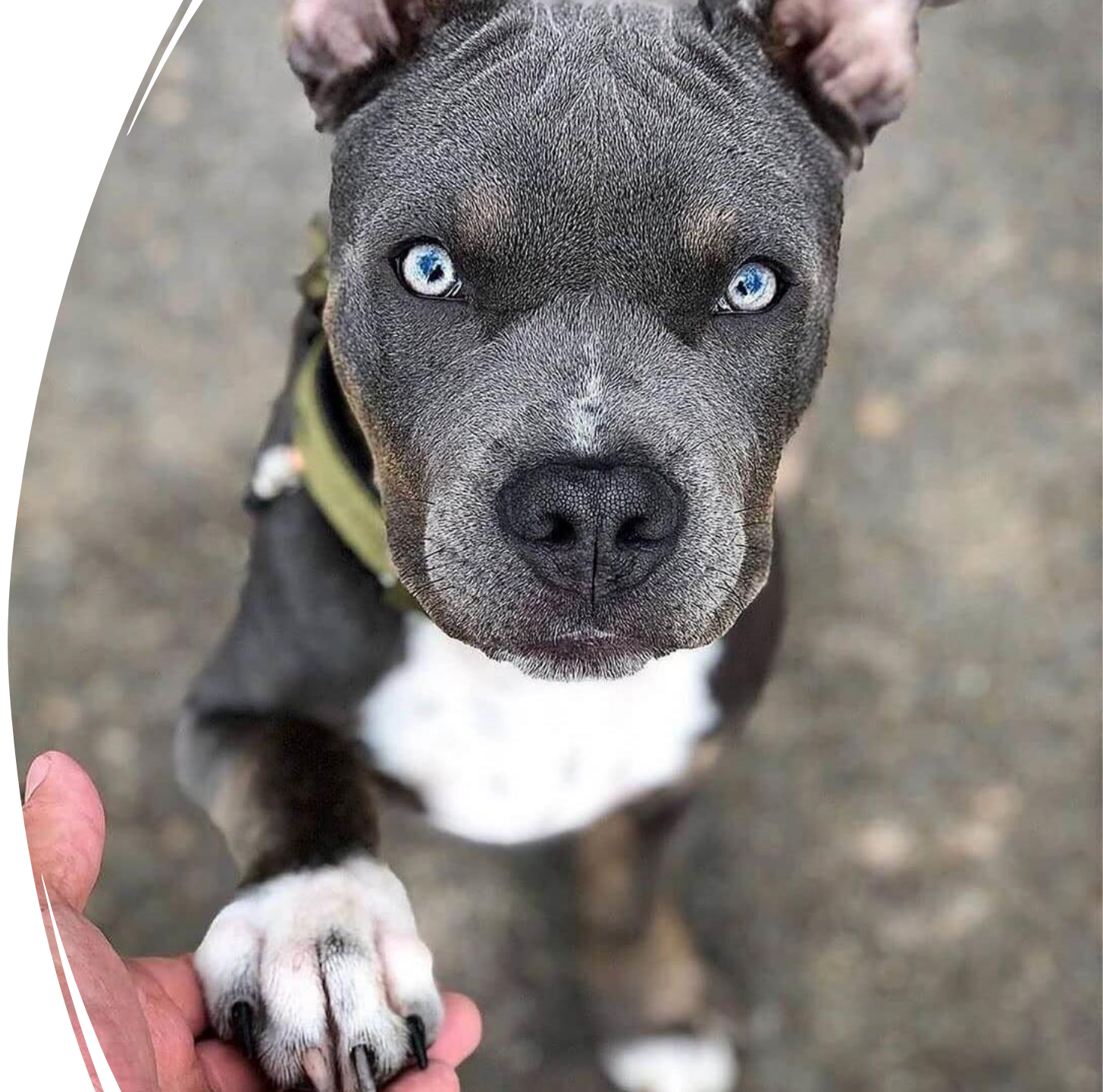
They have filed a fair housing claim for discrimination. How do you respond?

Example

A tenant has a disability and has made a request for a reasonable accommodation to allow his pit bull in the unit.

Can the landlord deny the request based solely on the breed of the dog?

What if the city has a restriction on this breed?



Example

A tenant has two emotional support dogs. One of the dogs bites another tenant.

What do you do?



What can you require of the Tenant?

- License, if required by local law
- Vaccination
- Control of Animal
- Care of Animal
- Responsibility for damages
- Responsibility for injuries

Example

- A resident of the apartment building works part-time as the caretaker and cleans the common areas. The resident choose the building because it had a "no pet" policy and she is severely allergic to cats.
- Three years later, an applicant completes an application to rent a unit. When she asked about pets, she was told it was a "no pet" building. When signing her lease, she requests a reasonable accommodation for her daughter's cat, as an ESA.

How do handle the caretaker's allergy and the ESA?



Direct Threats

FHA does not apply to "**direct threats**" to the health or safety of other individuals or result in substantial physical damage to the property of others.

The FHA does not allow for exclusion of individuals based upon fear, speculation, or stereotype about a particular disability or persons with disabilities in general.

Must consider:

- 1) the nature, duration, and severity of the risk of injury;
- 2) the probability that injury will actually occur; and
- 3) whether there are any reasonable accommodations that will eliminate the direct threat.

When Can I Say “NO”?

- If the request was not made by or on behalf of a person with a disability,
- If there is no disability-related need for the accommodation, or
- A request for a reasonable accommodation may be denied if providing the accommodation is not **reasonable**.
- Remember FHA does not apply to Direct Threats.
- If you are unsure, ask for help!

Example

As a result of a disability, a tenant is physically unable to shovel the sidewalks as required by the lease.

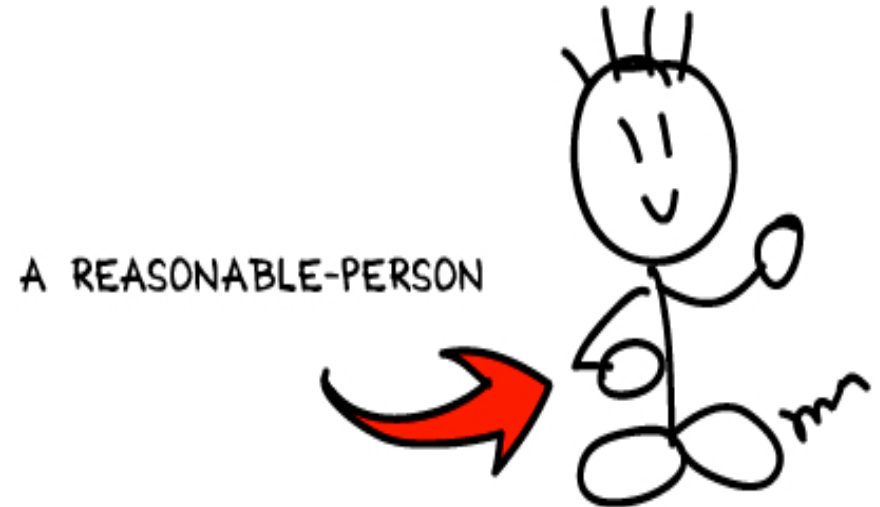
The tenant requests that the housing provider send a maintenance staff person to unit every time it snows to shovel the sidewalk.

Must the landlord comply with such a request?



Determining if a Request is Reasonable

- Impose an undue financial and administrative burden on the housing provider, or
- Fundamentally alter the nature of the provider's operations.
- Factors to consider:
 - 1) cost of the requested accommodation,
 - 2) the financial resources of the provider,
 - 3) the benefits that the accommodation would provide to the requester, and
 - 4) the availability of alternative accommodations that would effectively meet the requester's disability-related needs.



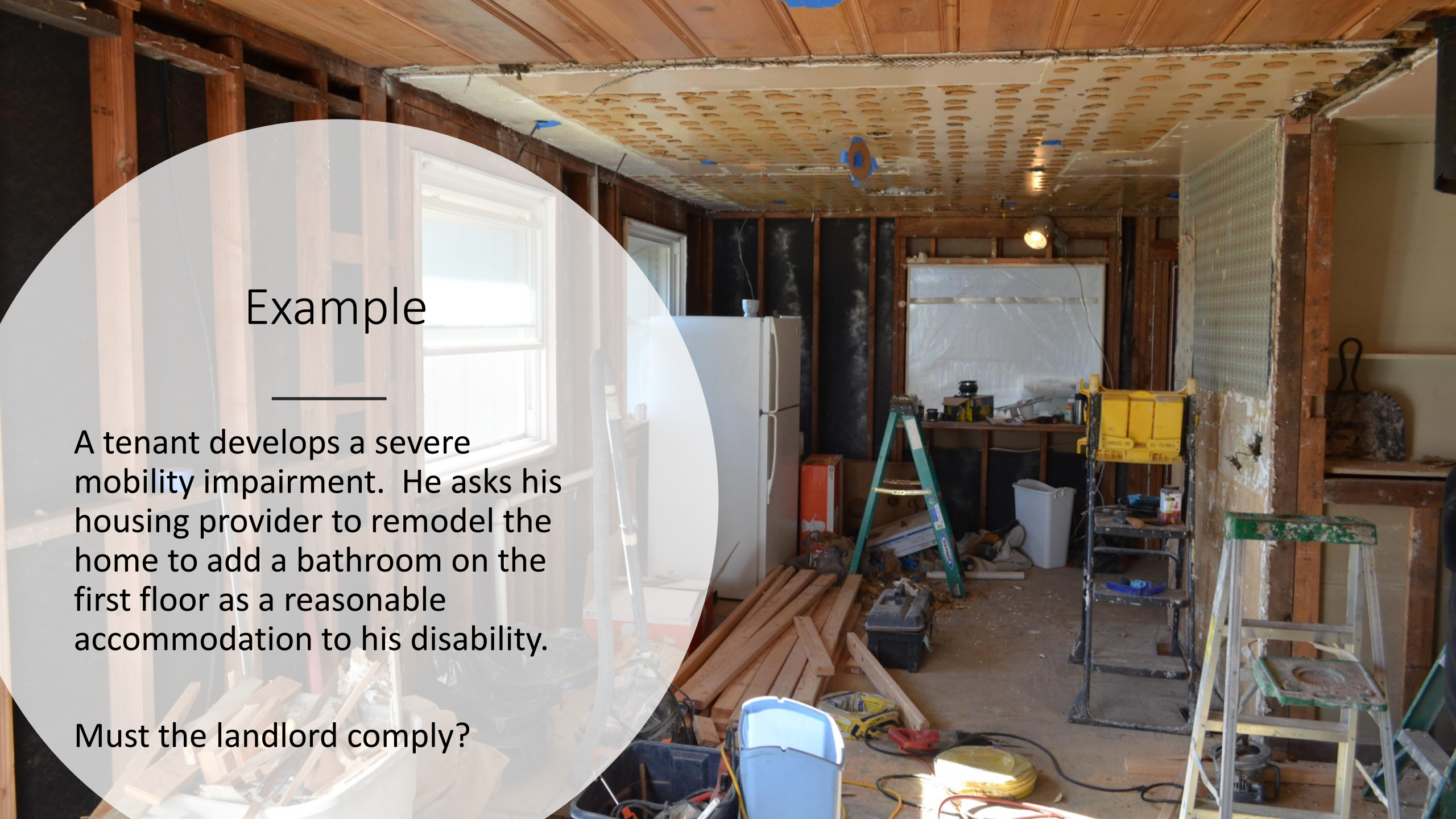
Reasonable Modifications: *a structural change*

- A reasonable structural change made to existing premises in order to afford a person with a disability full enjoyment of the premises.
- Can include structural changes to interiors and exteriors of dwellings and to common and public use areas.
- There must be an identifiable relationship, or nexus, between the requested modification and the individual's disability.
- Except in certain subsidized and affordable housing, tenant is responsible for paying for modification.

Example

A tenant develops a severe mobility impairment. He asks his housing provider to remodel the home to add a bathroom on the first floor as a reasonable accommodation to his disability.

Must the landlord comply?



Who is responsible for upkeep and maintenance expenses associated with a reasonable modification?

Who uses the modification?

Exclusively Tenant

Not Exclusive to Tenant (Common Area)

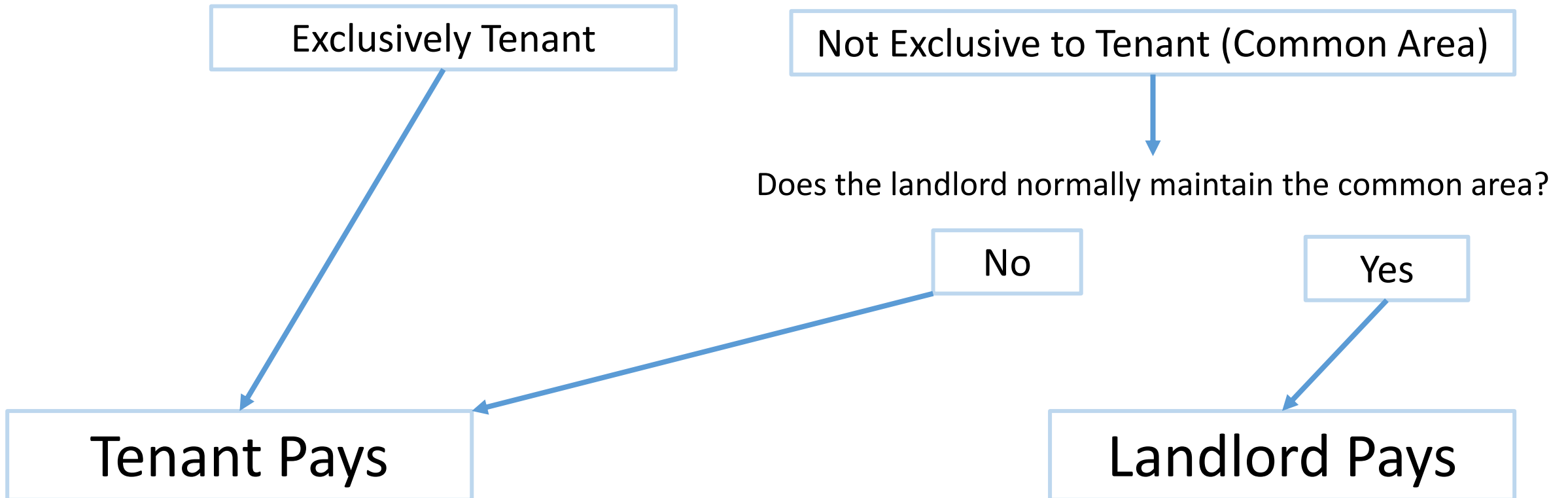
Does the landlord normally maintain the common area?

No

Yes

Tenant Pays

Landlord Pays



Restoring the Premises

- The tenant must restore the **interior** only where “it is reasonable to do so” and where the housing provider has requested the restoration.
- The tenant is not responsible for expenses associated with reasonable wear and tear.
- If the modifications do not affect the subsequent use or enjoyment of the premises, the tenant cannot be required to restore.
- A housing provider may choose to keep the modifications in place at the end of the tenancy.

Can Landlord Suggest an Alternative?

- Generally, no alternatives if the tenant complies with the requirements for reasonable modifications.
- If the modification is one that would not have to be restored, and imposes no additional costs and still meets the tenant's needs, then yes.
- If the landlord proposes a more costly design, to satisfy aesthetic standards, etc., the tenant is not responsible for additional costs.

Example

A man who is substantially limited in his ability to walk uses a motorized scooter for mobility purposes. He applies to live in an assisted living facility that has a policy prohibiting the use of motorized vehicles in buildings and elsewhere on the premises.

The housing provider grants a reasonable accommodation, however, because of the damage often caused by motorized scooters demands the tenant to pay an additional security deposit. Is this okay?



Additional Charges

- No additional charges for reasonable accommodations or modifications.
- No additional security deposits
- No required insurance

When and How to Request Accommodation/Modification

- Can be made at any time*
- Must make it clear to the housing provider that he or she is requesting an exception
- Does not have to be in writing – but it should be!
- Does not have to specifically say “accommodation” or “modification”

Example

After receiving a violation for smoking, a Tenant requests a reasonable accommodation for smoking medical marijuana with the appropriate medical documentation for her disability.

Can you grant the request?



Stayed
Tuned

The New York Times

Biden Pardons Thousands of People Convicted of Marijuana Possession Under Federal Law

The president will also urge governors to follow his lead for people convicted on state charges of possession, officials say.



Give this article



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Cannabis and Marijuana

- Technically illegal by federal laws
- Feds do not enforce the Controlled Substances Act against participants of state medical cannabis programs
- Congress prohibits the Dept of Justice from preventing implementation of medical marijuana programs



Cannabis and Marijuana in Minnesota

- Since 2014, medical marijuana is legal
- March 1, 2022, medical marijuana raw/flower cannabis – including smoking for 21+
- July 1, 2022, legalized food and beverages containing THC use for 21+



MN Department of Health

"[Medical cannabis] makes me almost pain-free; helps me eat, sleep, do day-to-day tasks; and just helps me stay dialed into my life."

— From a medical cannabis patient

MINNESOTA'S MEDICAL CANNABIS PROGRAM

Minnesota's Medical Cannabis Program

Since 2015, Minnesota's Medical Cannabis Program has provided a treatment option for patients who are facing debilitating medical conditions, helping to improve their quality of life. This guide can help you learn more about how to participate in the program.

Approved Forms of Medicine

PILL
Taken as a capsule or tablet

LIQUID
Dabbed or sprayed under the tongue

OIL
Ingested using a vaporizer

TOPICAL
Applied directly to the skin

GUMMY/ CHEW
Taken by mouth

TINCTURE
Placed under the tongue

POWDER
Mixed with water

LOZENGE
Taken by mouth

DRIED FLOWER*
Consumed by smoking

*For patients ages 21+

Medical Cannabis Dispensary Locations

Other Program Details

THE ANNUAL REGISTRATION FEE for a patient is \$200 that will be reduced to \$50 if you can show proof of receiving any of the following: Supplemental Security Income; Social Security Disability (including those transitioned to retirement benefits); medical assistance; MinnesotaCare; Indian Health Service; Railroad disability; VA dependency and indemnity compensation; or Veteran's disability benefits.

MEDICAL CANNABIS PRODUCT COST is paid directly to the manufacturers that operate the Medical Cannabis Dispensary each time you, your parent/legal guardian/spouse or registered caregiver purchase medical cannabis. Costs will vary. Medical insurance does not cover product cost.

Office of Medical Cannabis

Our Call Center staff are available from 8 a.m. to 4:30 p.m. Monday-Friday to answer any of your questions about becoming a patient.

651-201-5598 | 1-844-879-3381 (toll-free)
health.cannabis@state.mn.us | mn.gov/medicalcannabis

ID#B0085 (August 2022)

Patient Guide

Learn How to Become a Patient

Here are the basic steps you need to follow to become a medical cannabis patient. Look inside for more details about each step.

HOW TO QUALIFY


GETTING CERTIFIED FOR YOUR MEDICAL CONDITION

HOW TO REGISTER

PURCHASING YOUR MEDICAL CANNABIS

DEPARTMENT OF HEALTH
OFFICE OF MEDICAL CANNABIS

For more information, visit our website:
mn.gov/medicalcannabis

A close-up, slightly blurred photograph of a hand sorting through a large stack of papers. The papers are organized with colorful tabs in shades of yellow, orange, red, and blue. The hand is visible in the upper left corner, reaching into the stack. The overall scene suggests a process of filing or organizing documents.

Example

At the eviction hearing for the failure to recertify, the tenant requests a reasonable accommodation to recertification due to a learning disability.

Can the RA be claimed at eviction court?

Fair Housing Violation Investigation



Possible Consequences of Fair Housing Violation

- Compensate tenant for actual damages, including out-of-pocket expenses and emotional distress damages
- Provide permanent injunctive relief.
- Provide appropriate equitable relief (for example, make the housing available to tenant).
- Pay tenant's reasonable attorney's fees.
- Pay a civil penalty to HUD to vindicate the public interest. The maximum civil penalties are: \$16,000, for a first violation of the Act; \$37,500 if a previous violation has occurred within the preceding five-year period; and \$65,000 if two or more previous violations have occurred within the preceding seven-year period.

Fair Housing Act Conciliation

- During the complaint investigation, HUD is required to offer you and the respondent the opportunity to voluntarily resolve your complaint with a Conciliation Agreement.
(hud.gov)
- Tenants may also file a separate private civil lawsuit without first filing a complaint with HUD





Fair Housing Policy

- Easily Accessible
- the Why?
- Statement of commitment
- Forms
- Training for staff
- Process for reviewing requests/complaints

Fair Housing Policy Recommendations

- Equal Housing Opportunity Policy
- Animal and Pet Policy
- Reasonable Modification and Accommodation Policy
- Reasonable Accommodation Requests
 - Decision withing 10 days of receiving documents
 - Keep a list of RA requests

Goals

- Make you more effective by understanding how to legally and efficiently handle common problems.
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QUESTIONS



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