



REASONABLE ACCOMMODATIONS AND REASONABLE MODIFICATIONS UNDER THE FAIR HOUSING ACT

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OUR ROADMAP

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FAIR HOUSING ACT

- **IT SHALL BE UNLAWFUL:**
 - **TO DISCRIMINATE IN THE SALE OR RENTAL, OR TO OTHERWISE MAKE UNAVAILABLE OR DENY, A DWELLING TO ANY BUYER OR RENTER BECAUSE OF A HANDICAP OF—**
 - **THAT BUYER OR RENTER,**
 - **A PERSON RESIDING IN OR INTENDING TO RESIDE IN THAT DWELLING AFTER IT IS SO SOLD, RENTED, OR MADE AVAILABLE; OR**
 - **ANY PERSON ASSOCIATED WITH THAT BUYER OR RENTER.**

42 U.S.C. § 3604(f)(1)

FAIR HOUSING ACT

- **IT SHALL BE UNLAWFUL:**
 - **TO DISCRIMINATE AGAINST ANY PERSON IN THE TERMS, CONDITIONS, OR PRIVILEGES OF SALE OR RENTAL OF A DWELLING, OR IN THE PROVISION OF SERVICES OR FACILITIES IN CONNECTION WITH SUCH DWELLING, BECAUSE OF A HANDICAP OF—**
 - **THAT PERSON; OR**
 - **A PERSON RESIDING IN OR INTENDING TO RESIDE IN THAT DWELLING AFTER IT IS SO SOLD, RENTED, OR MADE AVAILABLE; OR**
 - **ANY PERSON ASSOCIATED WITH THAT PERSON.**

42 U.S.C. § 3604(f)(2)

FAIR HOUSING ACT

- **STATUTORY EXAMPLES OF DISCRIMINATION:**
 - A REFUSAL TO PERMIT REASONABLE MODIFICATIONS OF EXISTING PREMISES
 - A REFUSAL TO MAKE REASONABLE ACCOMMODATIONS IN RULES, POLICIES, PRACTICES, OR SERVICES
 - A FAILURE TO DESIGN AND CONSTRUCT DWELLINGS SO THAT THEY ARE READILY ACCESSIBLE TO AND USABLE BY PERSONS WITH DISABILITIES

42 U.S.C. § 3604(f)(3)

DISABILITY DEFINED

- **A PERSON WITH:**
 - **A PHYSICAL OR MENTAL IMPAIRMENT WHICH SUBSTANTIALLY LIMITS ONE OR MORE OF SUCH PERSON'S MAJOR LIFE ACTIVITIES,**
 - **A RECORD OF HAVING SUCH AN IMPAIRMENT, OR**
 - **BEING REGARDED AS HAVING SUCH AN IMPAIRMENT**
- **DOES NOT INCLUDE CURRENT ILLEGAL USE OF OR ADDICTION TO A CONTROLLED SUBSTANCE**

42 U.S.C. § 3602(h)

DISABILITY DEFINED

- **PHYSICAL OR MENTAL IMPAIRMENT:**
 - **ANY PHYSIOLOGICAL DISORDER OR CONDITION, COSMETIC DISFIGUREMENT, OR ANATOMICAL LOSS AFFECTING ONE OR MORE OF THE FOLLOWING BODY SYSTEMS; OR**
 - **ANY MENTAL OR PSYCHOLOGICAL DISORDER, SUCH AS MENTAL RETARDATION, ORGANIC BRAIN SYNDROME, EMOTIONAL OR MENTAL ILLNESS, AND SPECIFIC LEARNING DISABILITIES**

24 C.F.R. § 100.201

DISABILITY DEFINED

- **MAJOR LIFE ACTIVITIES:**
 - **FUNCTIONS SUCH AS CARING FOR ONE'S SELF, PERFORMING MANUAL TASKS, WALKING, SEEING, HEARING, SPEAKING, BREATHING, LEARNING AND WORKING**

24 C.F.R. § 100.201

REASONABLE MODIFICATIONS

- **A REFUSAL TO PERMIT REASONABLE MODIFICATIONS OF EXISTING PREMISES**
- **AT THE EXPENSE OF THE PERSON WITH A DISABILITY**
- **IF NECESSARY TO AFFORD THE PERSON FULL ENJOYMENT OF THE PREMISES**

24 C.F.R. § 100.203(A)

REASONABLE MODIFICATIONS

- **IF A RENTAL, THE LANDLORD MAY CONDITION PERMISSION FOR A MODIFICATION ON THE RENTER AGREEING TO RESTORE THE INTERIOR OF THE PREMISES TO THE CONDITION THAT EXISTED BEFORE THE MODIFICATION**
- **ONLY WHERE IT IS REASONABLE TO DO SO**
- **REASONABLE WEAR AND TEAR EXCEPTED**

24 C.F.R. § 100.203(A)

REASONABLE MODIFICATIONS

- **THE LANDLORD MAY NOT INCREASE ANY CUSTOMARILY REQUIRED SECURITY DEPOSIT**
- **HOWEVER, WHERE NECESSARY TO ENSURE THAT FUNDS WILL BE AVAILABLE TO PAY FOR THE RESTORATIONS, THE LANDLORD MAY REQUIRE THE TENANT TO PAY INTO AN ESCROW ACCOUNT A REASONABLE AMOUNT OF MONEY**

24 C.F.R. § 100.203(A)

REASONABLE MODIFICATIONS

- **THE LANDLORD MAY REQUIRE A REASONABLE DESCRIPTION OF THE PROPOSED MODIFICATIONS AND REASONABLE ASSURANCES THAT THE WORK WILL BE DONE IN A WORKMANLIKE MANNER**

24 C.F.R. § 100.203(B)

REASONABLE MODIFICATIONS

- **EXAMPLE #1:**
 - **A RENTAL APPLICANT HAS A CHILD WHO UTILIZES A WHEELCHAIR**
 - **THE BATHROOM DOOR IN THE APARTMENT IS TOO NARROW TO PERMIT THE WHEELCHAIR TO PASS**
 - **THE APPLICANT ASKS THE LANDLORD FOR PERMISSION TO WIDEN THE DOORWAY AT THE APPLICANT'S OWN EXPENSE**
 - **IT IS UNLAWFUL FOR THE LANDLORD TO REFUSE TO PERMIT THE APPLICANT TO MAKE THE MODIFICATION**

REASONABLE MODIFICATIONS

- **EXAMPLE #2**
 - **TENANT WANTS TO INSTALL GRAB BARS IN THE BATHROOM AT HIS OWN EXPENSE**
 - **TENANT MUST FIRST REINFORCE THE WALLS WITH BLOCKING BETWEEN STUDS TO AFFIX THE GRAB BARS**
 - **THE LANDLORD MUST ALLOW, HOWEVER, THE LANDLORD MAY CONDITION THE PERMISSION ON THE TENANT AGREEING TO RESTORE BATHROOM TO CONDITION THAT EXISTED BEFORE MODIFICATION**
 - **THE LANDLORD CAN REQUIRE TENANT TO REMOVE BARS, BUT IT WOULD BE UNREASONABLE TO REQUIRE THAT HE REMOVE BLOCKING ADDED TO WALLS**

REASONABLE ACCOMMODATIONS

- **A REFUSAL TO MAKE REASONABLE ACCOMMODATIONS IN RULES, POLICIES, PRACTICES, OR SERVICES**
- **IF ACCOMMODATIONS ARE NECESSARY TO AFFORD PERSON WITH A DISABILITY EQUAL OPPORTUNITY TO USE AND ENJOY A DWELLING UNIT, INCLUDING PUBLIC AND COMMON USE AREAS.**

24 C.F.R. § 100.204(A)

REASONABLE ACCOMMODATIONS

- **EXAMPLE #1**
 - **A RENTAL APPLICANT WHO IS BLIND WANTS TO LIVE WITH HER SEEING EYE DOG**
 - **THE APARTMENT COMPLEX HAS A NO PETS POLICY**
 - **MANAGEMENT MUST PERMIT THE APPLICANT TO LIVE IN THE APARTMENT WITH THE SEEING EYE DOG, SINCE IT IS REQUIRED FOR HER TO HAVE AN EQUAL OPPORTUNITY TO USE AND ENJOY THE DWELLING**

REASONABLE ACCOMMODATIONS

- **EXAMPLE #2**
 - **ABC APARTMENTS IS A 300-UNIT COMPLEX WITH PARKING SPACES AVAILABLE TO TENANTS AND GUESTS ON A FIRST COME FIRST SERVED BASIS**
 - **A RENTAL APPLICANT WITH A DISABILITY IS UNABLE TO WALK MORE THAN A SHORT DISTANCE AND THEREFORE REQUESTS A RESERVED PARKING SPACE NEAR HIS UNIT**
 - **MANAGEMENT MUST PROVIDE THIS REQUESTED ACCOMMODATION; THE RESERVED SPACE IS NECESSARY TO AFFORD THE APPLICANT AN EQUAL OPPORTUNITY TO USE AND ENJOY A DWELLING**

REASONABLE MODIFICATIONS SAMPLE CASES

- **SHELTON V. WALDRON, 2013 U.S. DIST. LEXIS 158291 (M.D. TENN. NOV. 5, 2013)**
 - **APARTMENT TENANT REQUESTED THE INSTALLATION OF A RAMP AND BATHROOM RAILS**
 - **REGARDING RAMP, THE LANDLORD RESPONDED: “YOU CAN HAVE ONE [RAMP] PUT IN AT YOUR OWN EXPENSE AS LONG AS IT'S REMOVABLE WHEN YOU LEAVE AND IS NOT PERMANENT.”**
 - **TENANT SUED ARGUING THAT LANDLORD IS REQUIRED TO PAY FOR THE RAMP AND RAILS SINCE THIS WAS A REQUEST FOR REASONABLE ACCOMMODATION**
 - **COURT DISMISSED; IDENTIFIED THESE AS REQUESTS FOR REASONABLE MODIFICATIONS, WHICH MUST BE PAID FOR BY TENANT**

REASONABLE MODIFICATIONS SAMPLE CASES

- **WEISS V. 2100 CONDO. ASS'N, 941 F. SUPP. 2D 1337 (S.D. FLA., APR. 8, 2013)**
 - **PLAINTIFFS AND PLAINTIFFS' SON, WHO UTILIZES A WHEELCHAIR, LIVE IN A CONDO NEAR THE BEACH**
 - **PLAINTIFFS ALLEGED THAT THE CONDO ASSOCIATION'S FAILURE TO CONSTRUCT AN ACCESSIBLE RAMP TO ACCESS THE BEACH WAS A DENIAL OF A REASONABLE ACCOMMODATION OR MODIFICATION REQUEST (ARGUED BOTH)**
 - **COURT CONCLUDED THAT THIS WAS A REASONABLE MODIFICATION REQUEST AND THAT FHA "MAKES CLEAR THAT A REASONABLE MODIFICATION MAY BE PERMITTED AT PLAINTIFFS' OWN EXPENSE."**
 - **PLAINTIFFS CONSISTENTLY REFUSED TO CONTRIBUTE ANY MONEY TO PROPOSED CONSTRUCTION**

REASONABLE ACCOMMODATION SAMPLE CASES

- **WEISS V. 2100 CONDO. ASS'N, 941 F. SUPP. 2D 1337 (S.D. FLA., APR. 8, 2013)**
 - **PLAINTIFFS ALLEGED CONDO ASSOCIATION'S REFUSAL TO PROVIDE GOLF CART TRANSPORTATION FOR THEIR SON TO THE BEACH WAS FHA VIOLATION**
 - **WANTED CONDO ASSOCIATION TO USE MAINTENANCE GOLF CART TO TRANSPORT SON**
 - **DEFENDANTS ARGUED THAT REQUEST WAS UNREASONABLE**
 - **DEFENDANTS OFFERED TO ALLOW PLAINTIFFS TO STORE AND USE A GOLF CART ON ASSOCIATION PROPERTY TO TRANSPORT THEIR SON TO THE BEACH**
 - **COURT AGREED UNREASONABLE; EVEN IF WAS A REASONABLE REQUEST, PLAINTIFFS ARE NOT ENTITLED TO ACCOMMODATION OF THEIR CHOOSING; DEFENDANTS OFFERED ACCOMMODATION WAS APPROPRIATE**

REASONABLE ACCOMMODATION SAMPLE CASES

- **RAMOS V. NEUMANN, 417 FED. APPX. 640 (9TH CIR. 2011)**
 - **PLAINTIFFS REQUESTED THAT LANDLORD ALLOW THEM TO INSTALL A TRAMPOLINE FOR THE BENEFIT OF THEIR DAUGHTER WITH AUTISM**
 - **LANDLORD DENIED THE REQUEST; PLAINTIFFS SUED**
 - **COURT FOUND THAT THE REQUESTED ACCOMMODATION WAS NOT REASONABLE**
 - **PLAINTIFFS DID NOT PROVE CAUSATION BETWEEN TREATMENT FOR AUTISM AND USE OF THE REQUESTED TRAMPOLINE**

REASONABLE ACCOMMODATION SAMPLE CASES

- **PARRIS V. PAPPAS, 2010 U.S. DIST. LEXIS 131945 (D. CONN., DEC. 14, 2010)**
 - **TENANT REQUESTED THAT SHE BE ALLOWED A LIVE-IN AID AS A REASONABLE ACCOMMODATION**
 - **POLICY PROHIBITED “UNAUTHORIZED TENANTS”**
 - **AFTER DENIAL OF REQUEST, LANDLORD ATTEMPTED TO EVICT PLAINTIFF ALLEGING THAT SHE HAD AN UNAUTHORIZED TENANT**
 - **COURT FOUND THAT LIVE-IN AID MUST BE ALLOWED AS A REASONABLE ACCOMMODATION UNDER FHA; ISSUED PRELIMINARY INJUNCTION AGAINST EVICTION**

REASONABLE ACCOMMODATION SAMPLE CASES

- **FAIR HOUS. OF THE DAKOTAS, INC. V. GOLDMARK PROP. MGMT., 778 F. SUPP. 2D 1028 (D.N.D., MAR. 30, 2011)**
 - **LARGE MANAGEMENT COMPANY INSTITUTED A POLICY OF CHARGING A NON-REFUNDABLE FEE AND A MONTHLY PET CHARGE FOR “NON-SPECIALLY TRAINED” ASSISTANCE ANIMALS IN “NO PETS” BUILDINGS**
 - **ARGUED THAT THE FEE WAS NECESSARY TO RECOUP A PORTION OF THE COSTS ASSOCIATED WITH THE ANIMALS (CLEANING, DAMAGE)**
 - **COURT STATED THAT THE ADA DEFINITION OF “SERVICE ANIMAL” DOES NOT APPLY TO FHA; FHA ENCOMPASSES ALL TYPES OF ASSISTANCE ANIMALS REGARDLESS OF TRAINING**

ADDITIONAL RESOURCES

- **DOJ/HUD JOINT STATEMENT: REASONABLE MODIFICATIONS UNDER THE FAIR HOUSING ACT**
 - *[HTTP://PORTAL.HUD.GOV/PORTAL/DOCUMENTS/HUD DOC?ID=DOC_7502.PDF](http://portal.hud.gov/portal/documents/hud_doc?id=doc_7502.pdf)*
- **DOJ/HUD JOINT STATEMENT: REASONABLE ACCOMMODATIONS UNDER THE FAIR HOUSING ACT**
 - *[HTTP://WWW.HUD.GOV/OFFICES/FHEO/LIBRARY/HUDDOJ STATEMENT.PDF](http://www.hud.gov/offices/fheo/library/huddoj_statement.pdf)*