

## Fair Housing: Reasonable Accommodations and Reasonable Modifications

If you are an individual with a disability you may encounter housing discrimination during your search for affordable, accessible and integrated housing. This fact sheet is intended to provide you with basic information about discrimination. If you experience discrimination you should seek assistance from a lawyer or a fair housing organization.

### Three federal laws prohibit housing discrimination against individuals with disabilities:

- The Fair Housing Amendments Act of 1988 (FHAA)
- Section 504 of the Rehabilitation Act of 1973 (Section 504)
- Title II of the Americans with Disabilities Act (ADA)

The **FHAA** applies to almost all privately owned housing and housing subsidized by federal or state funds, including Housing Choice Vouchers (formally known as Section 8 vouchers). This law has the broadest application of the three laws.

**Section 504** of the Rehabilitation Act applies when housing is built with or rented using federal funds. A housing authority that administers a Housing Choice Voucher Program is covered by Section 504, but a private landlord that accepts a Housing Choice Voucher is exempt from Section 504.

The **ADA** applies to housing programs funded or operated by state or local governments and their agencies, including public housing authorities. Because the ADA only applies to public places, private landlords that accept housing choice vouchers are not covered by the ADA.

### Who Enforces these?

- ▶ U.S. Dept of Housing and Urban Development (HUD) enforces FHAA, Section 504 and ADA
- ▶ The Department of Justice (DOJ) may file a lawsuit under the FHAA if there is finding of serious or widespread discrimination
- ▶ In Ohio, the Ohio Civil Rights Commission (OCRC) investigates, mediates and issues administrative decisions pertaining to FHAA, Section 504 and ADA as well as the Ohio discrimination laws.

### “Reasonable Accommodation” vs “Reasonable Modification”

A **reasonable accommodation** is sought when a person requests a waiver from a rule, policy, practice or procedure based on their disability. (E.g., requesting a service or support animal as an exemption from a “no pet” policy or waiving a pet deposit fee). Accommodations are considered “reasonable” when they are practical and feasible:

- A landlord does not have to grant a request for an accommodation if it would impose:
  - Undue burden - an unreasonable financial or administrative cost; or result in
  - Fundamental alteration - an accommodation that would change the basic operation or nature of services provided
- ▶ A **reasonable modification** is sought when a person needs a structural modification to their dwelling based on their disability. (E.g., requesting the installation of grab bars in a bathroom).

## Who Pays for Reasonable Modification

- ▶ A landlord who is subject only to FHAA does not have to pay for the changes you request. Multifamily dwellings with four or more units, also known as FHAA covered buildings, must meet accessibility requirements, but modifications in addition to this are paid for by the tenant.
  - A landlord must let you make a change, at your own expense, as long as it is a “reasonable modification”.
- ▶ A landlord who receives federal funds and is covered by Section 504 may be required to make and pay for modifications to accommodate your disability, unless it would cause him unreasonable financial or administrative hardship.

**NOTE:** HOME Choice Goods and Services or waiver funds can be accessed to be used for home modifications not covered by the landlord.

## Do you need to Remove a Modification Upon Move-Out?

- ▶ A landlord can require the removal of an interior modification.
- ▶ A landlord may not request that a tenant remove an exterior modification though the tenant may choose to remove it.

## Properties Covered by the Fair Housing Amendments

- ▶ The FHAA applies to most privately owned housing and to housing subsidized by federal or state funds, including housing choice vouchers. **Three narrow exceptions to FHAA coverage are:**
  1. A person who owns no more than three homes and sells or rents a home without discriminatory advertisement or using a real estate agent \*;
  2. Housing providers who lease units in buildings with four or fewer units, if the owner lives in one of the units\*; and
  3. Private clubs or religious organizations that restrict occupancy in housing units to members of the club or religious organizations.
- ▶ The State of Ohio has separate fair housing laws, and under Ohio law, the FHAA coverage exceptions above marked with an asterisk (\*) **are not** considered exceptions in the State of Ohio
- ▶ Local laws may provide additional protections against housing discrimination