

# Navigating Housing Protections for People with Disabilities

*For Closed Captioning click the “Show Captions” button on the toolbar at the bottom of your screen.*

# Mission



Founded in 1983, the **Equal Rights Center** is a **civil rights organization** that identifies and seeks to eliminate unlawful and unfair discrimination in housing, employment, and public accommodations in its home community of greater Washington, D.C. and nationwide.

# ERC Services



## Programs

- Fair Housing
- Disability/Accessibility
- Public Accommodations
- Employment
- Corporate Partnerships & Training

## Activities

- Education and Outreach
- Compliance Services
- Civil Rights Testing
- Counseling and Advocacy

# Fair Housing Defined



## Definition:

The sale and rental of housing free from discriminatory practices or policies, while continuing to treat everyone equally and with respect.

## Why is it important?

- Moral Responsibility
- Civil Rights Law
- Smart Business

# Fair Housing Act History



- The Fair Housing Act (FHA) was signed into law on April 11, 1968.
- It was amended in 1988 to create additional protected classes
- Why is the year **1968** significant?





# Protected Classes

# Protected Classes - Defined



A group of people that share a common trait or characteristic and are then legally protected from discrimination on the basis of that trait or characteristic.

**Activity: Can you identify the seven federally protected classes?**

# Protected Classes - Federal



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





# Protected Classes – State and Local



- Individual states may have extended federal protections by adding more protected classes to their state laws (Source of Funds/Income now protected in VA, MD, and DC!)
- Cities and counties may also have additional protected classes that extend beyond the FHA
- It is up to every individual to learn the protected classes in their state and local area

# Protected Classes - Virginia



- **Statewide**
  - Elderliness (55+)
  - Sexual Orientation
  - Gender Identity
  - Military Status
  - Source of Funds
- **Arlington County**
  - Marital Status
  - Sexual Orientation
- **Falls Church**
  - Marital Status
- **City of Alexandria**
  - Sexual Orientation
  - Ancestry
  - Marital Status
  - Age
  - Gender Identity
- **Fairfax County**
  - Marital Status
- **Prince William County**
  - Age
  - Marital Status

# Protected Classes – Washington DC



- Personal Appearance
- Place of Residence or Business
- Political Affiliation
- Sexual Orientation
- Source of Income
- Status as a Victim of Intra-family Offense
- Homeless Status
- Age
- Family Responsibilities
- Gender Identity or Expression
- Marital Status
- Matriculation
- Sealed Eviction Records

DC Human Rights Act of 1977

# Protected Classes - Maryland



- **Statewide**
  - Gender Identity
  - Marital Status
  - Military Status
  - Sexual Orientation
  - Source of Income

Maryland Fair Housing Act

# Protected Classes – MD Counties



- **Frederick County**

- Age
- Source of Income

- **Prince George's County**

- Age
- Occupation
- Political Opinion
- Personal Appearance
- Source of Income
- Immigration/Citizenship Status

- **Howard County**

- Source of Income
- Political Opinion
- Age
- Personal Appearance

- **Montgomery County**

- Age
- Ancestry
- Family Responsibilities
- Presence of Children
- Source of Income

- **Anne Arundel County**

- Age
- Ancestry
- Citizenship
- Creed
- Gender Identity or Expression
- Marital Status
- Occupation
- Sexual Orientation
- Source of Income

# Protected Classes – MD Counties Cont.



- **Baltimore City**

- Age
- Ancestry
- Gender Identity or Expression
- Source of Income
- Marital Status
- Sexual Orientation

- **Baltimore County**

- Age
- Creed
- Marital Status
- Sexual Orientation
- Gender Identity
- Status as a Veteran

# Prohibited Activities



- Refusal to sell or rent
- Enforcing or offering discriminatory terms and conditions
- Misrepresenting availability
- Engaging in blockbusting or steering
- Harassment, threats, intimidation, coercion
- Retaliation
- Advertising a discriminatory preference
- Refusal to make reasonable accommodations or modifications



# Source of Income/Funds



# Sources of Income/Funds Examples



Payments  
from federal  
or local  
government  
programs

Rental  
Subsidies or  
Emergency  
Assistance

Rapid Re-  
Housing  
Programs

Veterans  
Benefits

Disability  
Benefits

Housing  
Choice  
Vouchers



# Common Examples of SOI Discrimination

“No Section 8!”

“Disability benefits not accepted.”

“No Rapid Re-housing, Permanent Vouchers ONLY.”

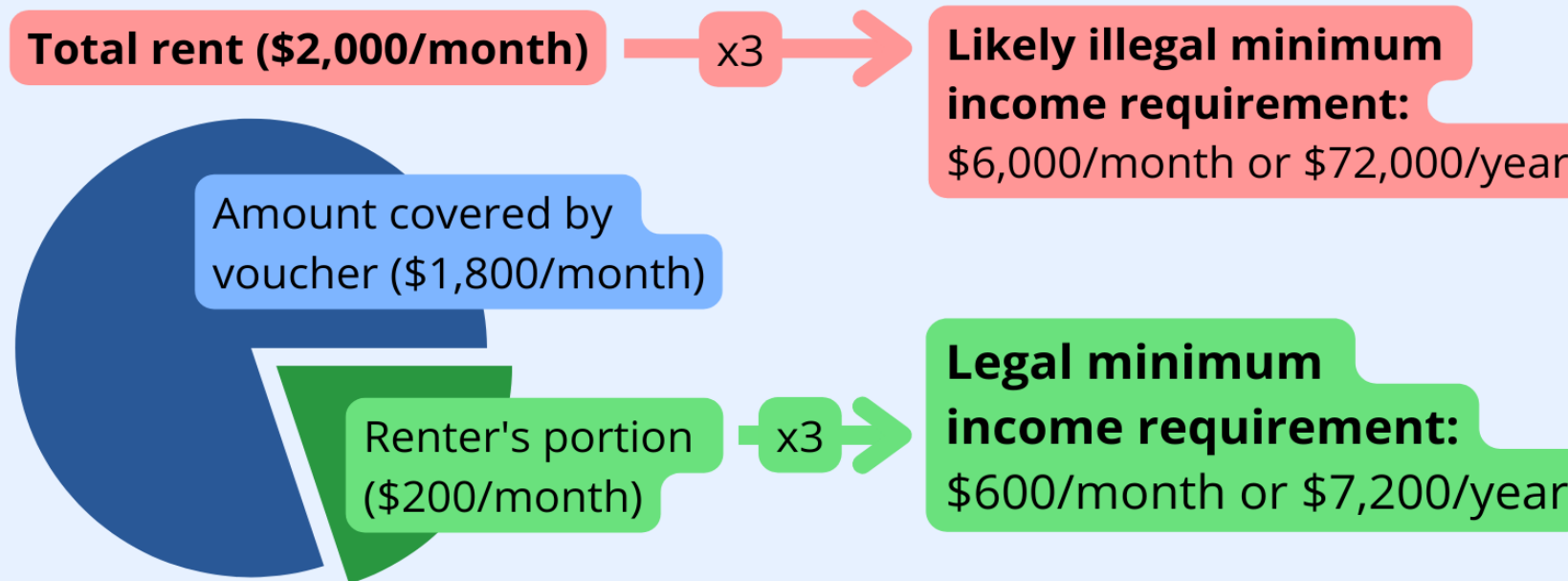
“Sorry, you need to have a job to live here.”

“We’re not approved by the Housing Authority to take vouchers yet.”

# MD/VA: Minimum Income Requirements



## Example minimum income requirement calculations for a voucher holder:



# Source of Funds in Virginia

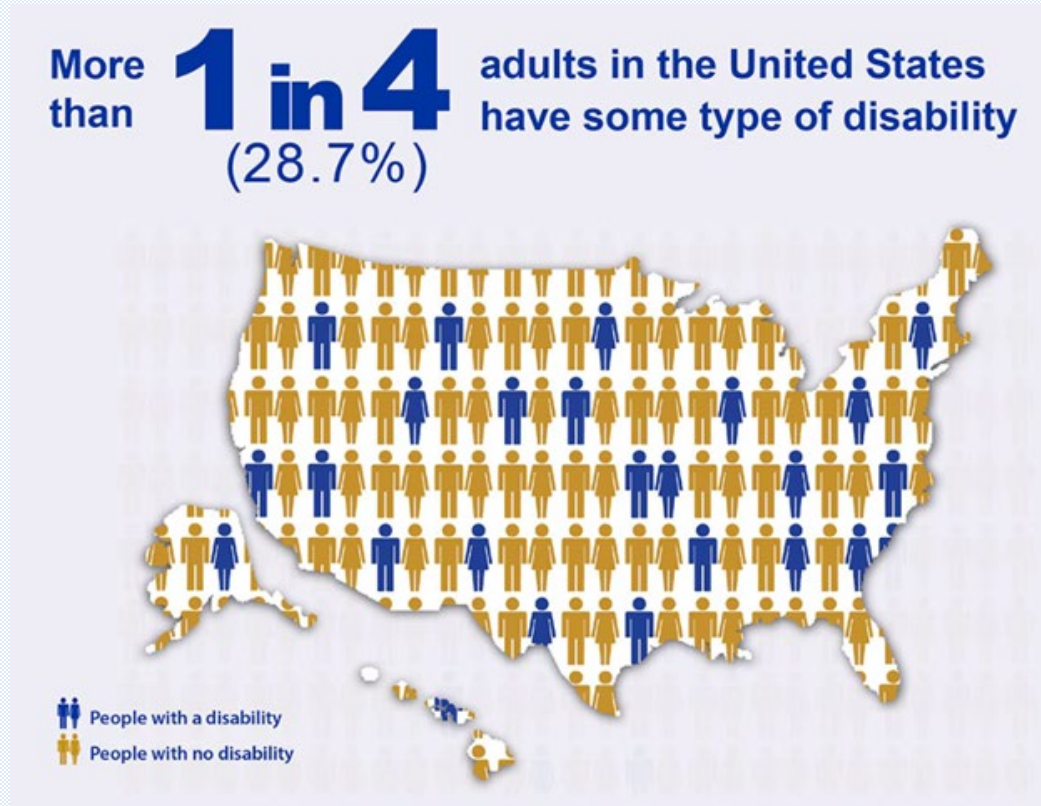


- Any legal source of funds (Vouchers, Rapid Re-Housing, etc.)
- Applies to housing providers who own more than 4 rental dwelling units or more than 10% interest in more than 4 rental dwelling units in VA.
- Exemption not forfeited by hiring an agent or making statement
- Source of Funds should be approved within 15 days of submission of the RFTA



# Navigating Housing Protections for People with Disabilities

# Disability and Housing



Most number of reports of discrimination

Anyone can have a disability, any number of times throughout their life

Heavily administrative

# Disability Etiquette Video





# Disability Etiquette



- Respect that each person is the expert on their own experience
- Talk to a person with a disability just as you would talk to anyone else
- Speak directly to and maintain eye contact with a person with a disability, not to their companion or interpreter
- Equipment is not a limitation but an instrument for independent living
- Don't assume that someone with a disability needs help. If you're unsure, ask!
- Respond graciously to requests



# Language Best Practices



- Context is key
- Respect that each person is the expert on their own experience
  - If you don't know, ask.
- Do not use terms such as afflicted, suffering, and stricken
- Equipment is not a limitation but an instrument for independent living
- Note that terminology changes and not every person in a group will agree with these terms

# Terminology



Identity First	Person First
Acknowledges a central part of a person's identity	Put an individuals' personhood before the disability
"d/Deaf person"	"Man using a wheelchair"

# Scenario

Is this an example of Person First or Identity First Language?

**Woman Using a Wheelchair**



# Scenario



Is this an example of Person First or Identity First Language?

**Deaf Person**



# Defining Disability



A physical or mental impairment which substantially limits one or more major life activities, or

A record of having such an impairment, or

Being regarded as having such an impairment



# Types of Disabilities

- Mobility Disabilities
- Developmental Disabilities
- Intellectual Disabilities
- Mental Health Disabilities
- Sensory Disabilities
- “Hidden/ Invisible” Disabilities

**These are not mutually exclusive; can fall into more than one category**

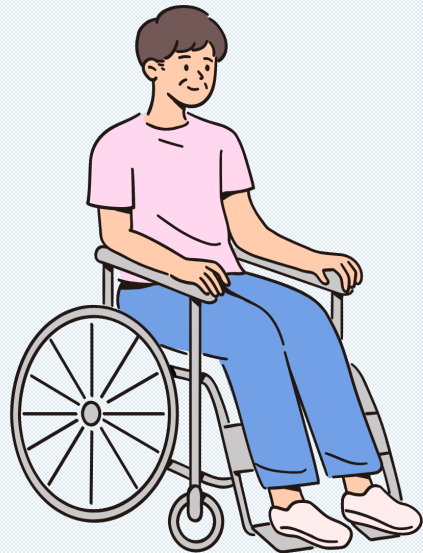
# All Disabilities are Equal!



# Disability Protections



The FHA allows for residents to request for **reasonable accommodations** and **reasonable modifications** if such changes will afford the person full enjoyment of their living situation.





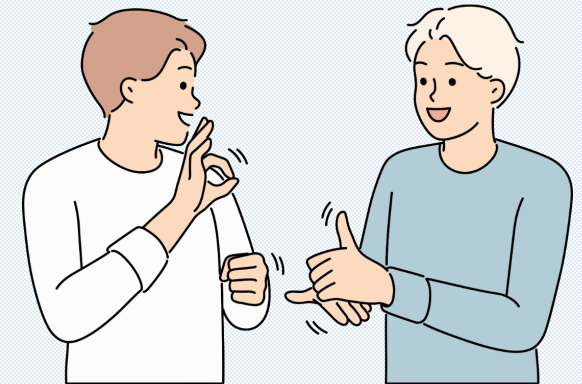
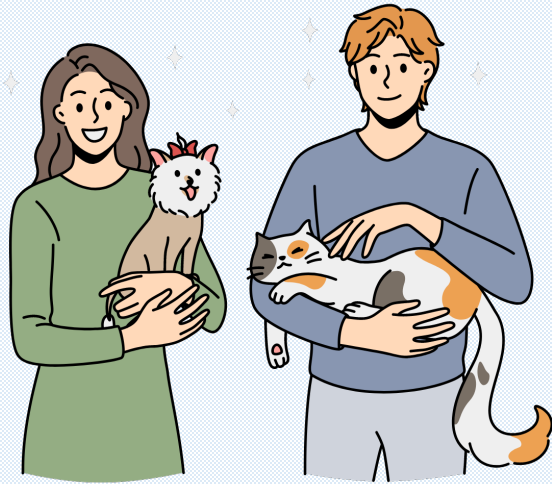
# Reasonable Accommodations



Changes in rules, policies, practices, or services that give a person with a disability equal opportunity to benefit from housing

## Examples:

- Waiving a “no pet” policy to allow an applicant’s assistance animal
- Changing a “first-come first-served” parking rule to afford a resident a reserved and/or accessible parking space
- Communicating through an interpreter



# Reasonable Modifications



Structural changes made to units or common use areas that afford a person with a disability full use and enjoyment of the premises

Examples:

- Installing a ramp
- Adding grab bars to a bathroom
- Installing a peephole in a door
- Replacing doorknobs with levers



# Who pays?



## Reasonable Accommodations

- Typically paid for by the **Housing Provider**

## Reasonable Modifications

- Typically paid for by the **Resident**
- ***Exception!*** *If Section 504 or other federal funding is present, the Reasonable Modification should be paid for by the Housing Provider.*

# Modifications to Common Use Areas



- Reasonable modifications are not limited to units; also permitted in common and public use areas
- In common areas, residents are responsible for the cost of modifications, but not for maintenance or removal
  - Adding railing in a hallway of a rec room
  - Building a ramp along a community route

# Modifications Post-Tenancy



- Residents may be asked to restore the unit to its original condition when “reasonable” to do so.
- Residents should not be asked to restore modifications that do not affect the subsequent tenant’s use or enjoyment of the unit.
- Should be handled on a case-by-case basis.
- Housing providers may NOT require modifications made to the exterior of dwelling units or common areas to be restored

# Assistance Animals and the FHA



**Under the FHA, there is no difference.  
Assistance Animals are not pets!**

# Assistance Animals



Service Dog

Emotional  
Support  
Animal

Therapy  
Animal

Guide Dog

Comfort  
Animal

Companion  
Animal

# Housing Provider Responsibilities



## Do not:

- Charge pet deposits, pet rent, or additional fees/deposits
- Require proof of formal training or certification
- Require use of a special harness or vest
- Impose breed/weight requirements

**\*Allergies and/or fears of animals are not valid reasons for dismissing an assistance animal from any community.**



# Owner Responsibilities



- Ensure animals do not pose a threat to other residents or property
- Follow “pet” rules that may include leash usage, clean up and general control of animal
- Be financially responsible for any property damage

# Assistance Animals Video



# Assistance Animal FAQs (1)

What kind of animals can be an assistance animal?

- Any animal that is commonly kept in households.

Rabbit

Fish

Hamster,  
gerbil, or  
other rodent

Turtle

Dog

Cat

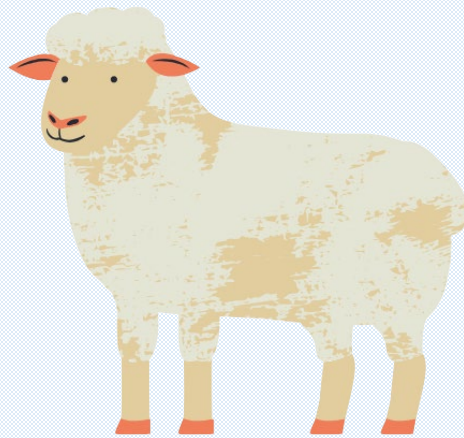
Small Bird

# Assistance Animal FAQs (2)



What if the animal is *not* commonly kept in households?

- The person requesting the reasonable accommodation has the burden or demonstrating a disability-related need for that specific animal or type of animal.



# Assistance Animal FAQs (3)

Can a resident have more than one assistance animal?

An individual may demonstrate a disability-related need for multiple animals.

A household may consist of multiple people with disabilities, each of whom requires an assistance animal.

# Scenario

An apartment complex has a list of breed restrictions that includes Pitbulls. A tenant requires the use of an assistance animal that happens to be a Pitbull.

**Should this tenant be allowed to have his assistance animal live with him?**



# Response

Yes, This is a reasonable accommodation.

- Assistance animals are not pets.
- Breed Restrictions do not apply.

**What if the apartment is located in a county with a Pitbull ban?**



# Scenario



A resident has a pet dog in a pet-friendly building. They have paid their non-refundable pet deposit and currently pay a monthly pet fee. Six months into their lease they make a RA request stating that their pet dog is now their emotional support dog.



**If the disability is verified - what should happen?**



# Response



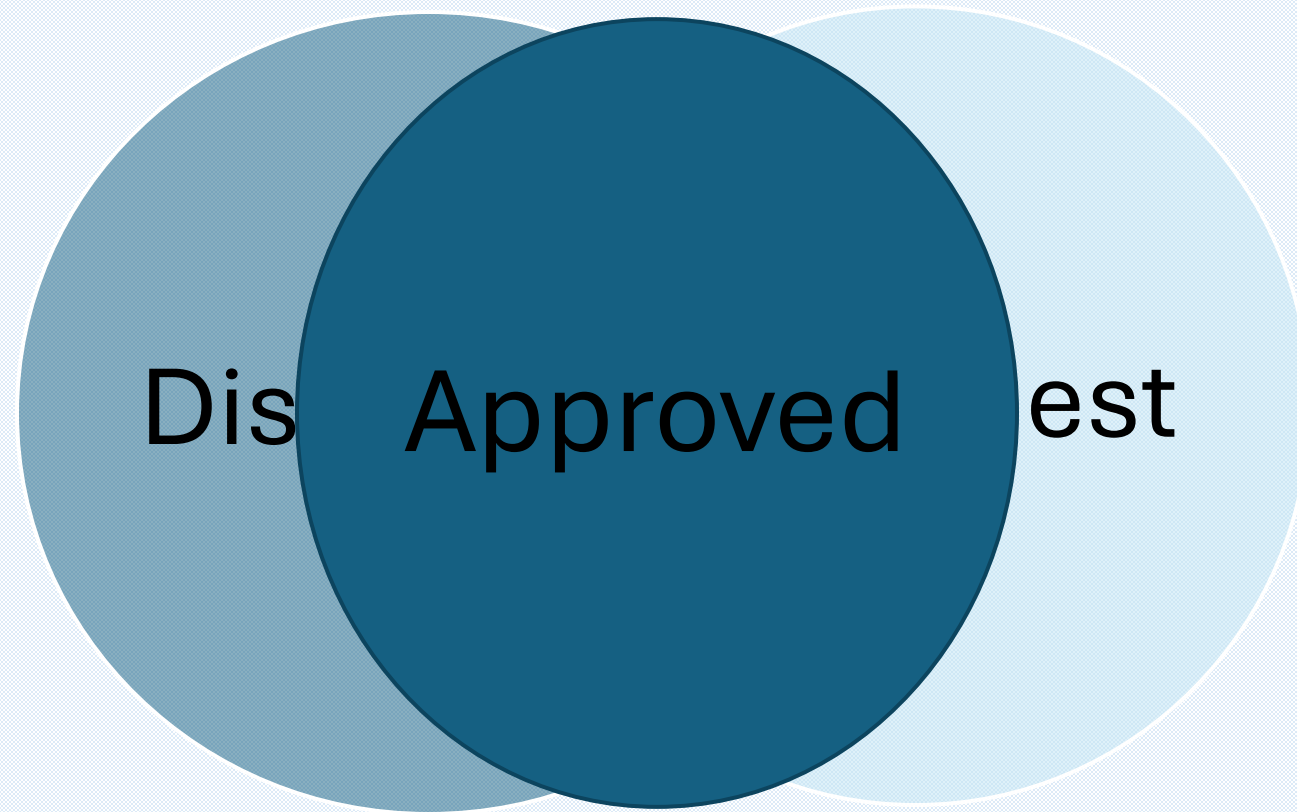
Resident would stop paying pet fees because:

- Assistance Animals are not pets, and
- Pet fees and pet deposits do not apply to assistance animals.



However, since the dog was their pet at one time – the deposit/past fees would not be required to be returned.

# Assessing Requests



# How to Request a RA or RM



- Residents can submit a request verbally or in writing.
- A housing provider can ask an individual to verify that they have a disability only if the disability isn't obvious
- A housing provider can ask an individual to verify their request is related to their disability only if the link isn't obvious
- Request should include a description of the needed modification or accommodation



# Policies and Procedures



- A resident may be able to make a request in writing or orally
- Requests should be handled in a timely manner.
- Provider may not inquire as to the nature or extent of the disability
- Review each request on a case-by-case basis
- May not pass information about a person's disability to a third party
- Resident need not use the term "Reasonable Accommodation" or "Reasonable Modification"

# Verification Process



- Verification as to whether the person has a disability IF the disability is not visible
  - Can be verified by self, third party, **OR** medical professional
- Description of the needed modification or accommodation
- Demonstrated relationship between the person's disability and the request
- Online verification for an assistance animal is no longer sufficient **unless** from a licensed medical provider.

# ERC Resources for People with Disabilities



## MAKING HOME ACCESSIBLE



A TOOLKIT FOR REASONABLE ACCOMMODATIONS AND MODIFICATIONS

## THIRD-PARTY VERIFICATION TEMPLATE



### Verifying the need for a reasonable accommodation or modification

Under the Fair Housing Act, an accommodation is a change in rule, policy, practice, or service that will provide a person with a disability equal opportunity to use and enjoy their home. A modification is generally a structural change to a unit, common area, and/or a public area. Modifications improve the functionality of a space for a person with a disability. Various sources can provide verification of a person's need for an accommodation or modification, including doctors, nurses, caseworkers, school administrators, and advocates. Verification does not require the disclosure of detailed medical information. For more information, visit [www.equalrightscenter.org](http://www.equalrightscenter.org). As a doctor, therapist, caseworker, or other advocate for a resident with a disability, your written verification can help a resident secure a reasonable accommodation or modification.

Dear [Manager/Name of Housing Provider]:

I am [insert your professional title or relationship to individual making the reasonable accommodation/modification request] and have knowledge about the disability of [name of resident]. I verify that they meet the definition of a person with a disability under the Fair Housing Act.

I understand that they recently made a reasonable [accommodation/modification] request, and can further verify that they have a disability-related need for [description of reasonable accommodation/modification]. This [accommodation/modification] will alleviate [description of disability-related symptoms] of their disability.

Sincerely,

[Name]

[Title]

[Address]

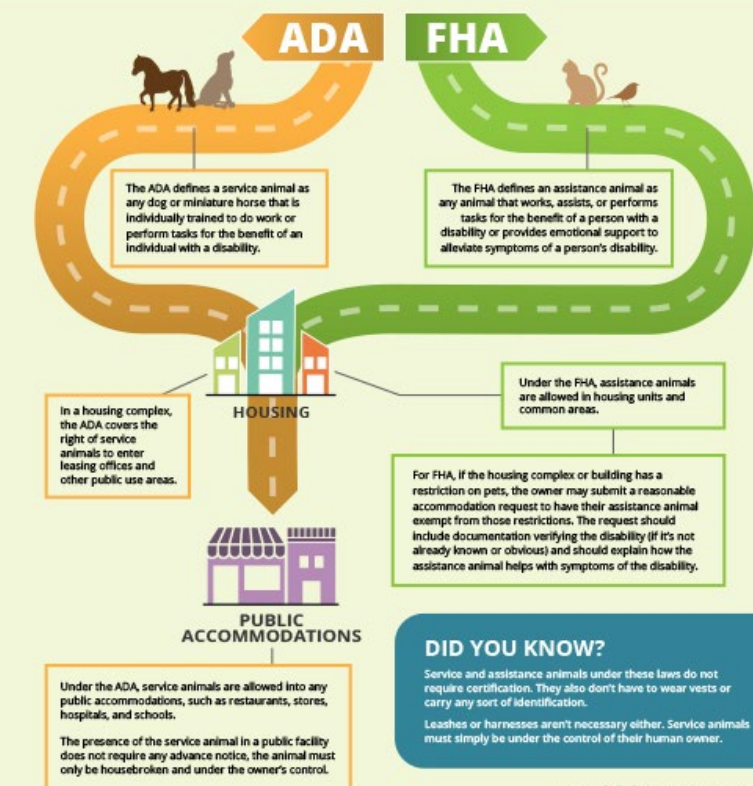
[Telephone Number]



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## NAVIGATING LIFE WITH YOUR SERVICE OR ASSISTANCE ANIMAL

The Americans with Disabilities Act (ADA) and the Fair Housing Act (FHA) provide protections and guidance for people with disabilities who use service or assistance animals.



[equalrightscenter.org](http://equalrightscenter.org)



# ERC Resources for Housing Providers



## Fair Housing Help Desk for Housing Providers

Frequently Asked Questions About Reasonable Accommodations and Reasonable Modifications



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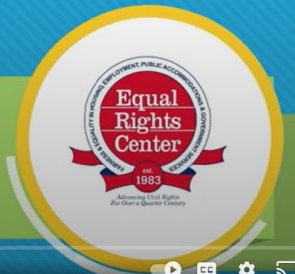
The information contained in this publication is not legal advice and should not be construed as such. For legal advice, please contact an attorney.



Assistance Animals



## Assessing Requests for Assistance Animals



0:05 / 5:50

# Denial of a Request



- If there is no disability-related need for the accommodation.
- If it would impose an undue financial and administrative burden on the housing provider
- Fundamentally alter the nature of the provider's operations.
- Pose a threat to the health or safety of other residents.
- If a request is going to be denied, housing providers should consider offering an **alternative accommodation** that meets the resident's disability-related need.



# Design & Construction Requirements



Multifamily buildings constructed after March 13, 1991

1. Accessible entrance along an accessible route
2. Accessible common and public use areas
3. Usable doors
4. Accessible route into and through the dwelling unit
5. Accessible environmental controls
6. Reinforced walls
7. Usable kitchens and bathrooms

# Hoarding



- Hoarding likely is protected as it may relate to a mental disability.
- This means a resident has the right to request a reasonable accommodation from the housing provider—even though they may not always ask for an accommodation
- Minimum health and safety ***standards must be met***, even if the resident who hoards requests or is offered a reasonable accommodation.

# Process



- Develop clear, mutually agreed upon goals and timeframes for accomplishing goals
- Schedule semi-annual or annual inspections to make sure the unit is up to code
- Help the resident set limits and self-monitor
- Remember minimum health and safety standards must be met

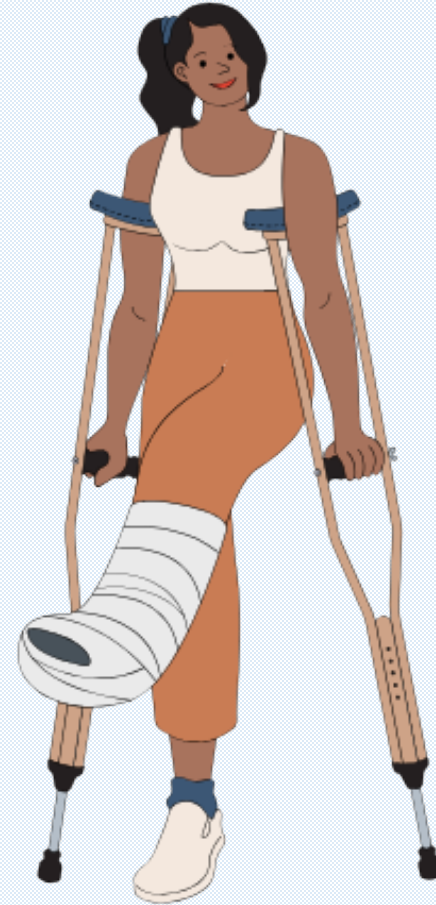
# Scenario



A resident with a mobility disability requests an assigned parking space closer to her building. However, the building only has first-come, first-serve parking, and does not offer assigned parking.

**Is this a reasonable accommodation or reasonable modification request?**

**Should you approve this request?**



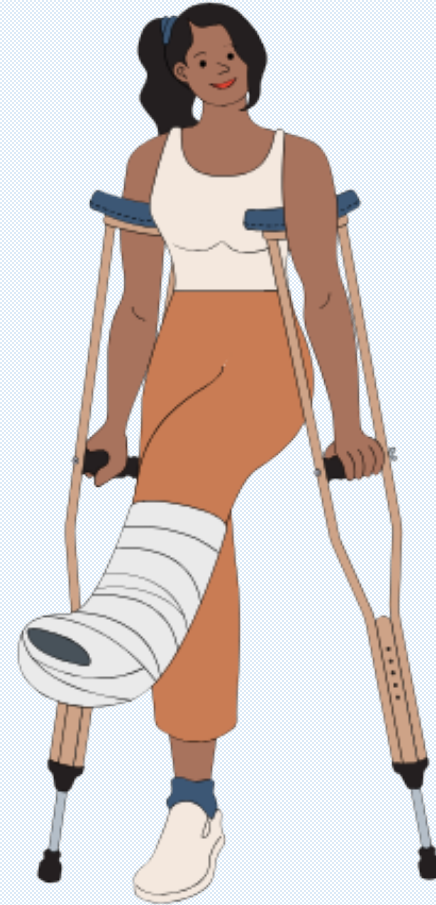
# Response



**This is a reasonable accommodation!**

The resident's mobility disability is directly related to her need to have a reserved accessible parking spot. Because her disability is observable, no proof of disability should be required.

**Yes!** This request should be approved and she should receive an assigned parking space for the duration of her disability.



# More on Parking

- Staff need to be mindful of reasonable accommodation parking requests that require creating signage, repainting markings, or creating curb cuts.
- Courts have ruled that even these are reasonable *accommodations* and therefore are at the cost of the landlord/property manager.



# Scenario



A resident who is hard of hearing requests that a leasing agent communicate through a video relay service with an interpreter.

**Is this a reasonable accommodation or reasonable modification request?**

**Should you approve this request?**



# Response

**This is a reasonable accommodation!**

**Yes!** This request should be approved as housing providers should communicate in a manner that a resident prefers.







# What is Video Relay?

- Video and IP Relay Services
  - Video Relay: Allows a person to communicate over the phone using ASL.
  - IP Relay: A Communications Assistant types out the conversation to the d/Deaf individual and reads their typed response to the hearing individual.
- TTY or Text Telephone
  - A device is paired with a TRS and allows an operator to type the hearing person's responses to the d/Deaf and reads their responses.

# Services for d/Deaf Residents



- Housing providers should become familiar with communication options (TTY or IP/Video Relay Services).
- Ensure that prospects are all receiving similar treatment
  - Hearing testers told more information regarding units, fees, rent, etc.
  - d/Deaf testers who are hung up on or disconnected multiple times, told they had to email the agent, and told that the agent would not communicate through an interpreter.
  - d/Deaf testers experienced longer wait times.

# Scenario



A resident enters a leasing office and states that they would like to have late fees waived because their disability benefits arrive after the rent day. They provide a document that displays when their benefits arrive.

**Is this a reasonable accommodation or modification?**  
**Did the resident provide sufficient documentation?**



# Response



**This is a reasonable accommodation!**

**Yes!** The resident provided sufficient documentation. Housing providers must consider requests even if it is made verbally or does not use preferred forms or procedures. Residents don't need to use the phrase "reasonable accommodation"



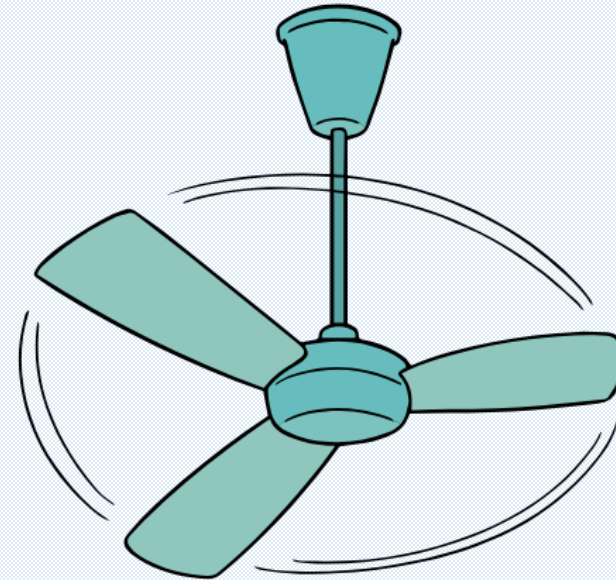
# Scenario



A resident who is blind asks his property manager to permit him to install a ceiling fan in his bedroom because he prefers more air circulation.

**Is this a reasonable accommodation or modification?**

**Should you approve this request?**



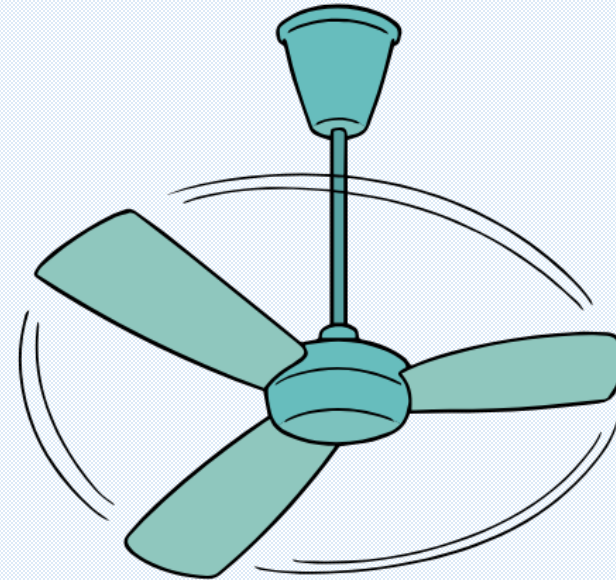
# Response



**This is neither a reasonable accommodation nor modification!**

There must be an identifiable nexus between the request and the disability.

Allow the person to make the request, then send to upper management for consideration.



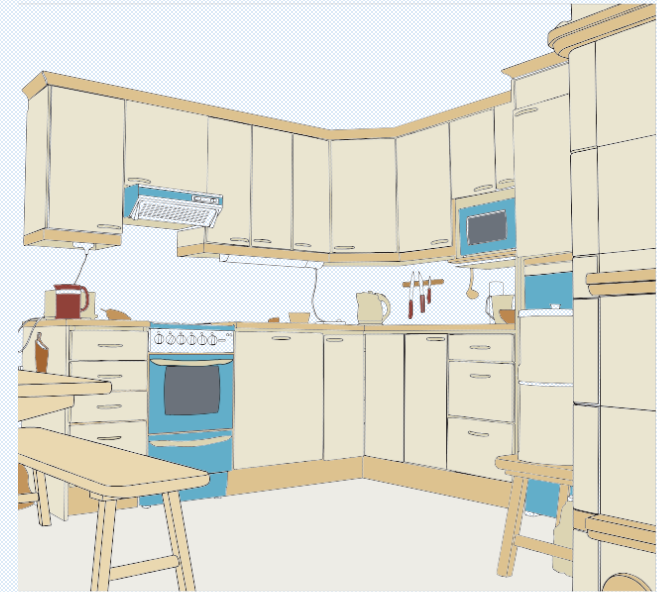
# Scenario



A resident who uses a wheelchair asks for permission to widen doorways, remove kitchen cabinets, and remove thresholds in her unit.

**Is this a reasonable accommodation or modification?**

**What would the resident need to restore when they move out?**





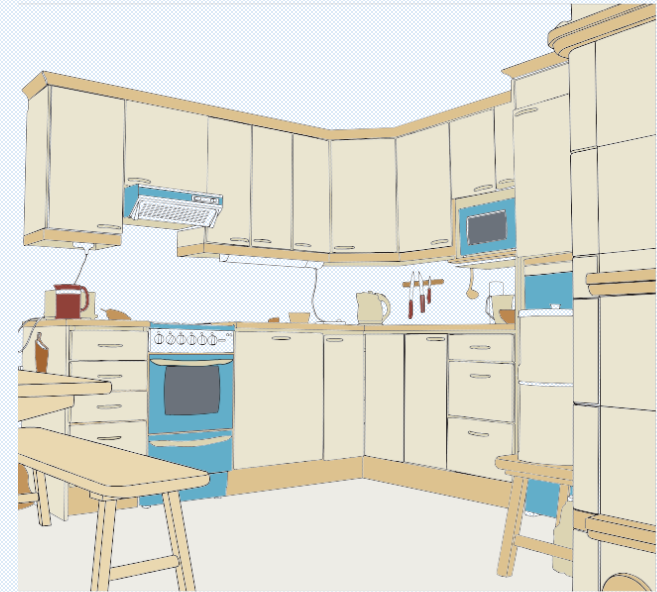
# Response



**These changes are all considered reasonable modifications,** and all should be granted by the property manager.

You may require the resident to pay for the cost of the modifications and require that the work is done by a licensed contractor with liability insurance

Can require the resident to restore the unit to its original condition at the conclusion of tenancy if the modifications are in the interior of the unit, and negatively affect the subsequent tenant's use or enjoyment of the unit.





# Scenario



A prospect who has PTSD has a companion dog. The prospect has found a building, but it happens to only allow cats for a non-refundable pet deposit. They request that their companion dog be allowed to stay with them in their unit.

**Is this a reasonable accommodation or modification?**

**Should the dog be allowed to stay?**

**Should the pet deposit apply?**



# Response



## This is a reasonable accommodation!

- **Yes!** The dog should be allowed to stay because all assistance animals are allowed in housing as a reasonable accommodation. Breed restrictions and animal type does not matter.
- No pet fee or deposit should be charged.
- Property managers can request verification of a disability before approving the assistance animal.



# Resources



## Equal Rights Center

- [www.equalrightscenter.org](http://www.equalrightscenter.org)
- 202-234-3062

## U.S. Department of Housing and Urban Development

- [www.hud.gov](http://www.hud.gov)
- 202-708-1112

## Available HUD Guidance

- Reasonable Accommodations
- Reasonable Modifications
- Assessing Requests for Assistance Animals
- HUD LGBT Rule
- Gender Identity Rule

# City of Alexandria Fair Housing Resources



## Office of Housing

- *Promotes compliance* with Fair Housing law through training for real estate and property management companies.
- *Administer Fair Housing testing* to ensure compliance with local, federal, and state laws.
- Assists residents in with *reasonable accommodation and modification requests* when assistance is needed.

## Office of Human Rights

- Enforces the Alexandria Human Rights Code by *receiving* and *investigating* complaints of discrimination under the Code and applicable federal and state laws.
- Makes determinations based on a *preponderance of evidence* whether discrimination has occurred.
- Determines and enforces penalties (both monetary and non-monetary)

# Complaint Process



## Filing Process

1. **Fill out Intake Questionnaire Form:** Submit online, in person, or by mail
2. **Meet with Investigator:** Discuss your case in a face-to-face interview
3. **Formalize Complaint:** Sign and notarize an affidavit

### Important Deadline:

Complaints must be filed within **300 days** of the last alleged discriminatory act

## After Filing

4. **Notification:** Affidavit is sent to landlord, who has **30 days** to respond
5. **Investigation:** Investigator conducts full investigation
6. **Rebuttal Opportunity:** Complainant reviews landlord's response and prepares a rebuttal statement
7. **Determination:** Human Rights decides if discrimination occurred based on preponderance of evidence

*\*Mediation and Conciliation may occur during this process*

# Potential Remedies

## when discrimination is found



- The purpose of remedial action is to make the complainant whole (compensatory)
- Possible remedies include **monetary** and **non-pecuniary**
  - **Monetary:** Return or waiver of fees, reimbursements, out-of-pocket costs
  - **Non-pecuniary:** Transferring units, changes to lease terms (accommodations), policy changes, fair housing training and monitoring

# How to Contact



## Office of Housing

421 King Street, Suite 215

Alexandria, VA 22314

703.746.5700

703.746.4311

[Alexandriava.gov/Housing](http://Alexandriava.gov/Housing)

## Office of Human Rights

123 N. Pitt Street, Suite 230

Alexandria, VA 22314

703.746.3140

[Alexandriava.gov/HumanRights](http://Alexandriava.gov/HumanRights)

# Thank You!



## Questions or Comments?

[bmckenzie@equalrightscenter.org](mailto:bmckenzie@equalrightscenter.org)

[www.equalrightscenter.org](http://www.equalrightscenter.org)

202-234-3062