

# Reasonable Accommodations: Overcoming Barriers to Housing for People with Disabilities

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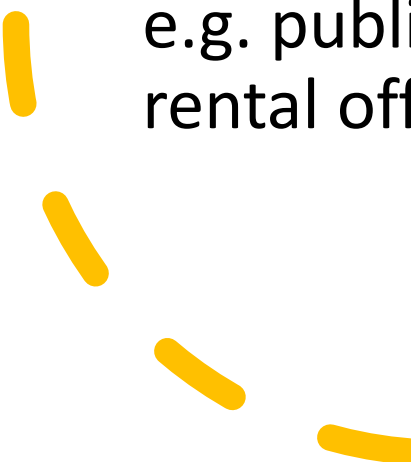
# Overview

- Fair Housing Basics
- Reasonable Accommodations
- Case Study
- Tips for Success






# Americans with Disabilities Act (ADA)

- Enacted in 1990. Prohibits discrimination in employment, transportation, public accommodations, communications, state and local government activities.
  - Limited coverage of housing – public entities that provide housing, e.g. public housing agencies and public accommodations, such as rental offices, shelters, and housing at places of public education.
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# Fair Housing Act Overview (FHA)

- FHA: prohibits discrimination in housing only.
  - FHA and ADA overlap in some types of housing, e.g. public housing.
  - FHA covers most housing, with few exemptions
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# Fair Housing Laws

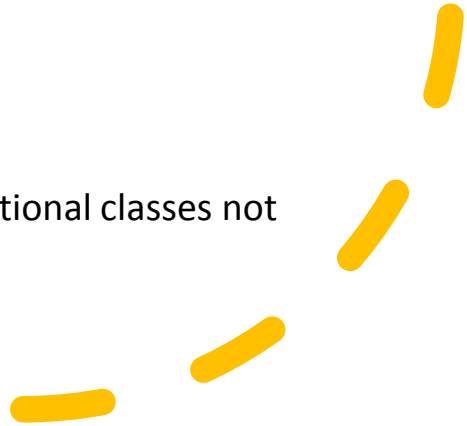
Fair Housing Act 42 U.S.C 3604

It is illegal to:


- advertise or make any statement that indicates a limitation or preference based on a protected class.
- Falsely deny that a rental unit is unavailable
- set more restrictive standards for selecting tenants or refuse to rent to members of protected classes
- before or during the tenancy, set different terms, conditions, or privileges for the rental of a dwelling unit.
- **refuse to make a reasonable accommodation for a person with a disability.**
- terminate a tenancy for a discriminatory reason

Minnesota Human Rights Act MN Stat. 363A.09

Substantially similar to federal law but adds protection for additional classes not covered by fair housing act.



# Reasonable Accommodation

- Landlord must make a change in policy, practice, or procedure IF:
    - 1) Tenant has a disability
    - 2) Accommodation is necessary for equal use and enjoyment
    - 3) Change is not unreasonable
  - Definition of unreasonable is a legal one:
    - Undue administrative and financial burden
    - Fundamental alteration of business
    - Direct threat
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# What is a disability?

- A physical or mental impairment that substantially limits a major life activity
- More Broad than Social Security Disability definition
- Does not include
  - Current illegal drug users
  - People who pose a direct threat

# What is a direct threat?

- Would threaten the health or safety of other individuals or likely cause substantial damage to property.

BUT . . .

- Must be an individualized assessment and not mere speculation or fear
- Housing provider must show *no* accommodation would minimize the risk before an eviction, meaning the tenant should be allowed to try a plan





## When to Submit a Reasonable Accommodation

- During the application process
- During tenancy
- Termination notice
- Eviction filed



# How it works.

- Tenant makes a request for an accommodation
  - May be in writing, in person, email, text
  - Provides medical documentation of a disability
  - Shows the accommodation is necessary
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- Owner/Manager must consider and respond to the request
  - Failure or delay is a denial of accommodation

# Owner or Manager.....

- May not deny RA because they are uncertain of disability or disability-related need.
- May not ask tenant to provide documentation of disability or disability-related need if both are readily apparent or known.
- May not ask tenant to provide access to medical records or providers or provide detailed information of disability.
- May not grant RA on condition of payment of fee or deposit.
- May not unreasonably delay a response.
- May not require a medical provider agree to testify in court

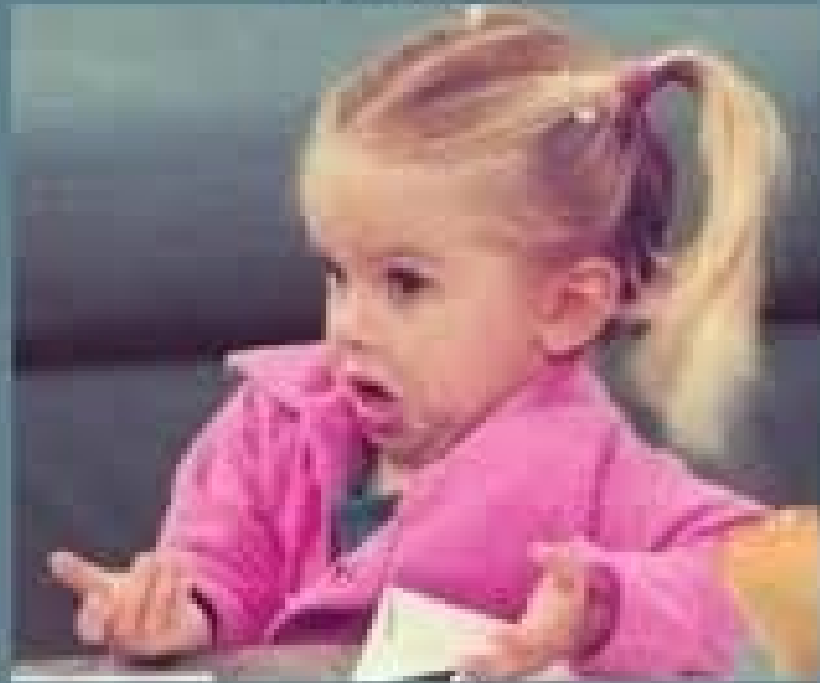
# Examples

- Previous rental reference was bad due to untreated chemical dependency issues
- Noise complaints are related to hearing loss
- Medication Changes resulted in poor housekeeping
- Hoarding

# Owner or Manager can do the following

- If disability is not readily apparent or known, **may** ask tenant to **submit reliable documentation** of disability and disability-related need for the accommodation.
- Require the disability be verified by a medical professional.

**MY FACE WHEN MY LANDLORD  
ASKS**



**WHERE DID THESE CATS COME  
FROM?**

Trudy





# Companion Animal Request #1

Dear Apartment manager:

I intend to get a companion animal to treat my depression.

Sincerely,

Jane





# Companion Animal Response #1

Dear Jane,

When you get the animal please let management know.

Sincerely,

Apartment Manager

# Companion Animal Request #2

Dear Apartment manager:

I have put a deposit down on a puppy and will pick up the puppy on Mother's Day. It is a companion animal to treat my depression.

Sincerely,

Jane

# Companion Animal Response #2

Dear Jane:

We need a note from your doctor stating that you have a disability and that you need the companion animal.

Sincerely,

Apartment Manager

# Companion Animal Request #3

Dear Apartment manager:

Please find enclosed letter from my doctor stating that I suffer from a depression which substantially limits a major life activity. A companion animal is necessary to treat my depression.

Sincerely,

Jane

# Companion Animal Response #3

Dear Jane:

You are approved to have one companion Cat.

Sincerely,

Apartment Manager

# Companion Animal Request #4

Dear Apartment manager:

I am allergic to cats. My companion animal is a puppy.

Sincerely,

Jane

# Companion Animal Response #4

Dear Jane:

Puppies are not allowed. Puppies cannot be companion animals.

Sincerely,

Apartment Manager

P.S. Puppies are not as cute as they think they are.

# Companion Animal Request #5

Dear Apartment manager:

Please find enclosed letter from my mental health professional that my mental health treatment includes bonding with a puppy.

Sincerely,

Jane



# Companion Animal Response #5

Dear Jane:

You have an illegal puppy. This is a lease violation. You will be evicted unless you remove the puppy from your home.

Sincerely,

Apartment Manager

P.S. The letter your doctor sent was not notarized.

# What happens next?

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- A. Jane files a fair housing complaint with HUD
- B. Jane files a complaint in federal court alleging violations of the Fair Housing Act.
- C. Apartment manager files an Eviction Action for an illegal puppy
- D. All of the Above



Outcome



# Tips for Success

- Specific Reasonable Accommodation Plan
- Earlier the better – particularly in Public Housing and Housing Choice Voucher cases
- Ask for it – even if you think it might be too late
- Know your resources – medical providers, mental health workers, social workers, legal advocates
- Be Creative

# If you have a problem

- HUD and DOJ frown on barriers to requesting accommodations
  - Notarized forms
  - “under penalty of perjury”
  - Blanket medical releases
  - Intrusive medical questions
  - Agreement to testify



# Resources

- Legal Services <https://www.lawhelpmn.org/providers-and-clinics>
- HUD [https://www.hud.gov/program\\_offices/fair\\_housing\\_equal\\_opp/online-complaint](https://www.hud.gov/program_offices/fair_housing_equal_opp/online-complaint)
- MDHR <https://mn.gov/mdhr/intake/>
- Local Human Rights Departments
- Legal Rights: <https://www.lawhelpmn.org/self-help-library/housing/housing-discrimination>