

REASONABLE ACCOMMODATIONS & REASONABLE MODIFICATIONS



*Presented by:
Heidi Termer,
Washington State Human
Rights Commission*

What is Fair Housing?



Fair housing is the right of all people to be free from discrimination in the rental, sale, or financing of housing.



Fair Housing means Equal Access

The Fair Housing Act

Equal Access for the Disabled



- ❧ Who is disabled?
- ❧ Reasonable Modification
- ❧ Reasonable Accommodation
- ❧ What can a landlord ask?



Who is Disabled?



❧ Federal definition of disability:

❧ “A physical or mental impairment which substantially limits one or more major life activities”; or

❧ A record of such an impairment;
or

❧ Being regarded as having such an impairment



Who is Disabled?



- ❧ Physical or Mental impairments include, but are not limited to:
 - ❧ Visual, speech, mobility or hearing impairments
 - ❧ AIDS
 - ❧ Mental/Emotional illness
 - ❧ Drug addiction (other than addiction caused by current, illegal use of controlled substances)
 - ❧ Alcoholism

Who is Disabled?



Washington State Law definition of disability much more broad:

Permanent and temporary;

Mitigated and unmitigated; and

Common or uncommon.

Medical professional responsible for
diagnosis of disabilities

COMMON DISABILITY ISSUES



**Reasonable
Accommodation**

**Reasonable
Modification**

Why Reasonable Accommodations and Reasonable Modifications?



Balancing the Scales



People with disabilities may require special needs to ensure that they have equal access and equal opportunity to use and enjoy a dwelling and common/public use areas

Reasonable Modification



A reasonable modification is a structural change that allows a person with a disability equal access and equal opportunity to use and enjoy a dwelling and common/public use areas.

Reasonable modifications are usually made at the resident's expense.*

*Exception: In Federally Funded housing facilities, the landlord would be responsible for the cost and the installation of the modifications, unless the modifications are unreasonable (Section 504)

http://www.hud.gov/offices/fheo/disabilities/reasonable_modifications_mar08.pdf

Reasonable Modification Examples



Ramps



Grab Bars Roll In Shower



Reasonable Accommodation



A reasonable accommodation is a change in rules, policies, practices, or services that allows a person with a disability equal access and equal opportunity to use and enjoy a dwelling and common/public use areas.

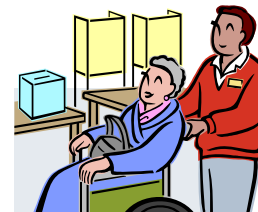
Reasonable Accommodation Examples



Parking



Caregivers



Assistance Animals



Equality versus Equity

- ❧ Most of the time, Fair Housing requires you to treat everyone the same way
- ❧ Reasonable accommodations and modifications require you to treat people differently
- ❧ Only available based on disability, not on other protected classes

A Landlord Can Ask...



- ❧ A landlord CAN ask for verification that the person is disabled and needs the accommodation or modification because of the disability
- ❧ This can be verified from a:
 - ❧ Doctor
 - ❧ Medical professional
 - ❧ Peer support group
 - ❧ Non-medical service agency
 - ❧ A reliable third party who is in a position to know about the individual's disability

Other Allowable questions



- ❧ Can you pay the rent?
- ❧ Do you have rental references?
- ❧ Will you comply with the rules?
- ❧ Do you have a criminal history?
- ❧ Are you currently using illegal drugs?
- ❧ If your housing is designed or designated for people with disabilities, you can ask every applicant if he or she qualifies for the housing.

A Landlord CANNOT ask...



- ❧ What is the diagnosis or nature of your disability?
- ❧ Do you take medication?
- ❧ How severe is your disability?
- ❧ Why are you getting SSI?
- ❧ Can I see your medical records?
- ❧ Have you ever been hospitalized?

When Must a Reasonable Accommodation Request Be Granted



- ❧ The person is disabled
- ❧ There is a nexus between the disability and the accommodation
- ❧ It is reasonable.

Requesting an accommodation or modification



- ❧ Doesn't have to be in writing, but it's recommended
- ❧ No specific HUD form
- ❧ Request should state:
 - ❧ That the person has a disability (doesn't need to say which one)
 - ❧ That the person needs the accommodation or modification because of their disability
 - ❧ That the accommodation or modification is necessary to give them equal use of their housing

Reasonable vs. Unreasonable?

A diagram consisting of a semi-circle on the left, divided into two horizontal sections by a line. The top section is light blue and the bottom section is a darker blue. To the right of the semi-circle is a light blue rectangular box, also divided into two horizontal sections by a line, corresponding to the sections of the semi-circle. The top section of the box contains the text 'Undue financial or administrative burden' and the bottom section contains the text 'Fundamental Alteration to the Business'.

**Undue financial or
administrative burden**

**Fundamental
Alteration to the
Business**

Undue Financial/Administrative Burden



Evaluate the financial impact the modification would have on your budget



Example:

Can you afford to install a \$70,000 elevator?

Fundamental Alteration



**Evaluate whether you are being asked
to provide a service not normally
provided in your business**

Examples:

Distributing Medications?

Providing Care Giver Services?



What to do next?



Reasonable

**Provide
Accommodation or
Modification**

**Not
Reasonable**

**Interactive dialogue to
implement other
alternatives to
accommodate the
person**

Reasonable Accommodations



LOCALLY

Serving all of Washington State



Commission housing
investigations 7/1/2019 through
6/30/2020:

104 new filings / 73 disability

129 closures / 86 disability

4 RC cases / 1 disability

24 settlements / 15 disability

Types of Reasonable Accommodations Washington State



- ❧ Request – Early release from lease
 - ❧ Response – Complainant was charged all rent for remainder of lease term
 - ❧ Settlement - Cancellation of debt / training
- ❧ Request - Retirement community requested to provide accessible transportation
 - ❧ Response – Respondent stated its vans were not accessible and it could not afford to buy new vans, and the vans could not be retrofit
 - ❧ Settlement – Respondent funded alternative transportation / training

Types of Reasonable Accommodations Washington State



- ❧ Request – Transfer to a ground floor unit
 - ❧ Response – Respondent stated none were available; Complainant had to relocate
 - ❧ Settlement – Respondent paid Complainant \$1,500 / training
- ❧ Request- Permit installation of a ramp for a tenant who uses a wheelchair
 - ❧ Response – Respondent refused, stating it blocked laundry room; 20 day termination
 - ❧ Settlement – Respondent paid Complainant \$2,000 / training

Types of Reasonable Accommodations Washington State



- ❧ Request –Release from lease due to need for room for caregiver
 - ❧ Response – Respondent stated he was holding Complainant to the lease because he had made other reasonable accommodation/modification for her already
 - ❧ Settlement – Respondent paid Complainant \$600 / training (limited damages)

- ❧ Request- Discuss tenancy issues with POA, and do not terminate tenancy due to severe cognitive disability
 - ❧ Response – Respondent denied knowledge of POA despite paper trail, and moved forward with termination
 - ❧ Settlement – Respondent paid Complainant \$4,163.93 / training



Questions?