

Homeowner Argues That Prohibiting a Barbeque Constitutes Disability Discrimination

by [Lawrence Szabo, Esq.](#) | Jun 16, 2022 | [Case Decisions](#), [Governing Documents](#)

This case involved a dispute between two condominium association members (“Owners”) and their condominium association (“Association”) over Owners’ entitlement to an accommodation from Association’s rules that prohibited the use of barbeques or grills on patios and balconies within the development. Owners sued Association, its board members, and certain employees under the Federal Fair Housing Amendments Act (“FHAA”) and an analogous Ohio statute contending that they were disabled, and that the denial of their requested accommodation amounted to disability discrimination.

The trial court granted summary judgment in favor of the defendants after finding that one of the owners failed to show that the requested accommodation was necessary to afford her an equal opportunity to use and enjoy her dwelling, and neither Owner established that their requested accommodations were “reasonable” under the FHAA. Owners appealed the trial court’s decision.

On review, the appellate court stated that an accommodation is “reasonable” under the FHAA when it imposes no “fundamental alteration in the nature of the program or undue financial and administrative burdens.” The court further stated that to determine reasonableness, the court weights the benefits of the requested accommodation to the plaintiff against the burdens that it imposes on the defendant.

In considering the facts of the case, the appellate court found that the burdens that the requested accommodation imposed on Association were not “reasonable” under the FHAA because they would impose significant administrative burdens on Association and undermine its justifications for the prohibition of individual barbeques and grills. Thus, because one of the Owners’ requested accommodations was not “necessary” to afford her an equal opportunity to use and enjoy her dwelling, and neither of the Owners requested accommodation was determined to be “reasonable,” the appellate court affirmed the trial court’s grant of summary judgment to the defendants.

Ohio Appellate Court decision (May 26, 2022)

See case decision: [Phillips v. Acacia on the Green Condo. Assn](#)