

How The Fair Housing Act Applies To Your Association

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Today, community associations are being challenged to provide services for the full breadth of members. A challenging area is accommodating the needs of disabled members. The Fair Housing Act requires associations to make “reasonable accommodations” for those with needs. The goal of these laws is to make it possible for a disabled person to live within the community by granting and maintaining an exception to the rules of the Association. An example of such an exception would be to the parking rules.

Whether the Association has open parking or assigned parking, a disabled member might have trouble living within the community unless the member’s parking space is accessible and accessible to his unit. If there is no place to park a van or a parking space is too far from the member’s unit, and the member cannot travel the distance from the parking area to the unit, the member is essentially prevented from living in the community.

When a member makes a disability request for a parking space or other accommodation, the Association needs to provide the accommodation if the member shows: 1) that the member is disabled and needs an accommodation to enjoy the member’s home on an equal basis, and 2) that the request is reasonable, i.e., it does not impose an excessive financial, administrative or safety burden on the Association.

The following is a very brief discussion of steps to take to be in compliance with the law. It is not meant to cover the entire scope of the law, but serve as an outline to make the Association aware of its rights and responsibilities.

1. Determine if the person is disabled. Information from a treating physician should be considered sufficient proof of a disability. The most common method to obtain such information is to give the resident a *Reasonable Accommodation Request Verification* form that their physician can fill out. The form should ask whether the resident is disabled, whether the accommodation is needed, and whether the condition can be treated. The form should not ask about the severity or the type of disability.
2. Determine if the accommodation is reasonable. What is considered reasonable depends on the individual circumstances and each request should be considered separately. A reasonable parking accommodation may include a close in parking space, reassignment of parking spaces, an extra wide space, a curb cut or wheel chair ramp, the right to park a van in the driveway if it is a vehicle necessary for transportation, the installation of an accessibility sign if the member wants one, or an accessible sign that states the space is assigned to a specific permit number. The Association may not charge for an accessible parking space or charge more than what other members pay.
3. An accommodation does not have to be made if it causes an undue burden. If parking a van near a corner is a safety hazard for school children or pedestrians, the accommodation does not need to be made at that location. If the accommodation would create a financial burden, such as

requiring a structural change to the building or garage so that the member can park close to his entrance, the Association can make the disabled resident pay for the requested accommodation.

In guiding the Association, it should be remembered that the purpose of the fair housing laws is to give equal treatment to all members, not preferential treatment to anyone.

Feel free to contact us if you have questions about how the Fair Housing Act applies to your association.