



ACCESSIBILITY IN RENTAL HOUSING

Is the following example a form of housing discrimination?

A woman living at an apartment complex becomes disabled and is now a wheelchair user; she asks the owner if she can install ramps leading to her apartment, and to the laundry room which currently has steps at the entrance. The owner tells her no.

Answer: Yes. This is a form of disability based housing discrimination because the laws require the owner to permit the installation of the ramps as a form of a “reasonable modification” to allow this woman to fully use and enjoy her housing unit.

WHAT IS A REASONABLE MODIFICATION?

Individuals with disabilities occasionally need to make changes to rental units in order to fully use and enjoy their premises. A change that is made to the structure of the dwelling, either to the interior or to common areas, for the benefit of a disabled person to ensure that they have an equal opportunity to use and enjoy the dwelling is called a “reasonable modification”. Both federal law under the Fair Housing Act (42 USC 3604(f)) and California law under both the Fair Employment and Housing Act and California Civil code section 54.3(b) (3) (A) require landlords to permit a disabled person to make reasonable modifications.

The California Fair Employment and Housing Act at Government code section 12927 (c) (1) states that housing discrimination includes:

Refusing to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by the disabled person, if the modifications may be necessary to afford the disabled person full enjoyment of the premises, except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter's agreeing to restore the interior of the premises to the condition that existed before the modification (other than for reasonable wear and tear).

In addition, the California Civil Code Section 54.3(b) (3) (A) states the following:

No additional security may be required on account of an election to make modifications to the rented premises under this paragraph, but the lessor and tenant may negotiate, as part of the agreement to restore the premises, a provision requiring the disabled tenant to pay an amount into an escrow account, not to exceed a reasonable estimate of the cost of restoring the premises.

Both the Federal Fair Housing Act and California's Fair Employment and Housing Act are important for people with disabilities for the following reasons:

- It requires landlords to allow tenants to make architectural additions or alterations to their unit if such alterations are necessary for the tenant to use the unit fully (for example, lowering kitchen cabinets or counters or widening a doorway). These alterations are made at the tenant's expense unless the housing has been built with the use of federal funding.
- it requires that any new multi-family housing (publicly or privately funded) with four or more units first occupied after March 13, 1991, must include seven basic access requirements on all ground floor units (unless the terrain prohibits access) and all units on floors served by elevators. The seven required access features include:
 1. one accessible entrance on an accessible route;
 2. accessible public use and common areas;
 3. usable doors (34" doors with 32" clearance)
 4. accessible routes into and through the unit (at least 36" wide and level)

5. light switches, electrical outlets, thermostats and other environmental controls in accessible locations;
6. reinforced walls for grab bars; and
7. useable kitchens and bathrooms.

EXAMPLES OF REASONABLE MODIFICATIONS: Installing grab bars, widening doorways, installing ramps to entrances of unit or common areas.

WHO PAYS FOR REASONABLE MODIFICATIONS?

Most frequently tenants of private housing have to pay to make their housing accessible but landlords are required to permit the modification to take place as long as it is reasonable. When they move out, renters may be required to restore their premises to the condition existing prior to making the modification to the interior of their units. A landlord cannot require restoration of a common area where a reasonable modification was made. For reasonable modifications, if the housing provider is a recipient of government funds, the housing provider is responsible for the cost.

Housing providers who are recipients of government funds would fall under Section 504 of the Rehabilitation Act of 1973. Section 504 requirements apply only to housing receiving financial assistance from HUD (for example, for construction or rental assistance). Entities covered include public housing authorities; states and cities receiving federal funds under the Home Investment Partnership Program (HOME), HOPE and Community Development Block Grant (CDBG) programs; and both private and non-profit developers who receive HUD funds to build or renovate housing. Landlords who lease to tenants with Section 8 certificates or vouchers, but who otherwise do not receive any federal funds, are not covered by Section 504.

WHAT IS REASONABLE?

According to Fair Housing laws "reasonable" means that the action requested by the individual with the disability:

- Does not cause an undue financial burden to the housing provider;
- Does not cause a basic change in the nature of the housing programs available;

- Will not cause harm or damage others; and
- Is technologically possible.

The Human Rights/Fair Housing Commission which investigates complaints of housing discrimination opened a case in 2005 where a disabled woman, who was a wheelchair user, did not have access to her laundry room; mail room or the manager's office because each of these rooms had a step leading to the entrance. The Commission was able to inform both the owner and the complainant of Sacramento Housing and Redevelopment agency's "Exterior Accessibility Grant for Renter's Program", which provides grant funds to retrofit common areas to make them accessible to persons with disabilities. The owner applied for the grant funds and the agency is currently processing the application. For more information on grant funds available for both common areas and for interior modifications, please contact the Sacramento Housing and Redevelopment Agency at 916-264-1500.

THE IMPORTANCE OF FAIR HOUSING LAWS

Independence and integration are important goals shared by people with disabilities, their families, and their advocates. Stable housing also affords people with disabilities the opportunity to become part of the community, and to achieve other important life goals, including education, job training, and employment.