

**As the Manager of rental property you are expected to
Know the following information that relates
to the protection of people with disabilities from discriminatory housing
practices.**

THE FAIR HOUSING ACT:

The Fair Housing Act prohibits discrimination based on disability by:

- A. Prohibiting discriminatory housing practices
- B. Requiring reasonable accommodations to be made and
- C. Requiring certain construction standards for multi-family dwellings built for first time occupancy after March 1991

SECTION 504 OF THE REHABILITATION ACTS:

Any public housing or public assisted housing provider that receives federal dollars is covered under the Rehabilitation Act of 1973. If you operate a Section 8 housing project or a Section 202 federally subsidized apartment complex, you are covered under both Section 504 and the Fair Housing Act.

THE AMERICANS WITH DISABILITIES ACT: (ADA)

TITLE II: Title II of the ADA covers all “public entities” – state and local governments regardless of whether they receive federal funding. Examples include: Low income housing units managed by the state or city; Public Housing Authorities; Section 8 certificate or voucher programs run by the state; county or city; or any city or county sponsored single room occupancy building.

WHO IS COVERED FOR NEW CONSTRUCTION

The Fair Housing Act establishes accessible design and construction requirements for **new construction** of covered multi-family dwellings for first time occupancy after March 13, 1991. Single-family dwellings are not covered under construction requirements. Multi-family dwellings is defined as consisting of four or more units. Examples of multi-family dwellings include: apartment complexes, condo unit 's single story townhouses, and high rises. If a building has no elevator, the accessible construction standards apply to ground floor units.

PRIVATE, NON-FEDERALLY FUNDED HOUSING

In non-federally funded (or private sector) dwellings, units may be designed and constructed with adaptable kitchens and bathrooms, which means that features can be added or removed to allow accessibility. All other features to the dwelling need to follow the Fair Housing Act accessibility standards and regulations.

FEDERALLY FUNDED HOUSING

For federally funded housing projects with elevator in buildings, all units must be designed and constructed to be fully accessible and usable by people with disabilities. In non-elevator buildings the ground floor units are to follow the Fair Housing Act requirements.

GENERAL COVERAGE FOR ADVERTISING

ALL housing is covered under the Fair Housing Act with regard to advertising. This applies to the sale, rental or financing of a single-family house as well as covered multi-family units.

ADVERTISING

It is unlawful to make, print or publish, or cause to be made, printed or published, any notice, statement or advertisement with respect to the sale, rental or financing of a dwelling, which indicates a preference, limitation or discrimination. Written notices and statements include: applications, brochures, signs, banners, newspaper ads, flyers or any document regarding the sale, rental or financing of the property.

Discriminatory notices, statements and advertising include:

- Using word, phrases, photos, illustrations or forms which convey that dwellings are available or not available to a particular group of persons because of national origin, religion, sex, race, color, familial status or disability.
- Expressing to agents, brokers, employees or renters an illegal preference for, or limitation on any purchaser or renter.
- Selecting media or location for advertisement of the rental of units which denies segments of the housing market information about housing opportunities.

DISCRIMINATION

Discrimination or improper selecting, usually falls into obvious or subtle types or action: Examples of discrimination can include:

- Refusing to show or rent to a “protected class”. (1)
- Charging higher fees, deposits or rent to a “protected class”.
- Refusing to show or issuing a denial to rent with a statement that the “unit has been rented” when in fact the unit is available.
- Showing less desirable units.
- Coding applications with a preference given to a “non-protected class”.

- Questions or statements, which indicate a different selection process.
- (1) “Protected class” means denial due to race, color, religion, national origin, sex, familial status or disability.

Discrimination suits can be avoided by the development and implementation of a written tenant selection system that applies the same criteria to each applicant. The development of a written application policy defining your standards and requirements of applicants forces the property manager to consciously think about the process.

Discrimination is illegal when a landlord treats one applicant or tenant differently than he treats another. Discrimination is also illegal when the policy has a greater affect of excluding a particular group. For example: If the manager denies a person’s application because the income source comes from an entitlement benefit rather than employment this practice becomes illegal. It does not matter where the income comes from as long as it is not from an illegal source and the person can show the ability to pay rent.

It is best to follow a policy of written standards and requirements for the processing of all applications that are based on a business necessity and treat all people equally. For example: Requiring a high school diploma to fill out an application is not a business necessity to prove a person can pay their rent and therefore would not need to be requirement. You can have a requirement that no smoking is allowed in your rental because it affects your business. You will most likely have to re-paint or fix burns in the carpet before renting to the next applicant.

WHAT YOU CAN AND CANNOT DO AS A LANDLORD

A LANDLORD CANNOT:

- Refuse to rent or deal with someone because he/she has a disability.
- Apply different rules, deposits or extra rental charges.
- Make false statements about a particular unit’s availability.
- Refuse to make a reasonable accommodations or modifications.
- Intimidate or retaliate against someone who has filed a complaint.
- Restrict the choice of unit or neighborhood of a perspective tenant.

A LANDLORD CAN

- Ask qualifying questions of all prospective tenants as long as the same questions are asked of all prospective tenants.
- Check references of a prospective tenant.
- Check a prospective tenant's ability to pay rent.
- Create rules for the benefit of all building tenants as long as the rules do not discriminate against a protected individual or class.
- Ask a prospective tenant with a disability how best to make reasonable accommodations, if requested, and proof of the need for the accommodation.

REASONABLE ACCOMMODATION

Physical Access:

You must ensure that your screening process is open and fully accessible to applicants with disabilities. This means your application office must be physically accessible and located on an accessible transportation route, unless it would create an undue financial and administrative hardship. If the office is not accessible, you need to make arrangements to deliver the application in person or by mail or to meet the prospective tenant in another accessible location.

COMMUNICATION ACCESS:

Documents intended for use by the applicant must be available in other formats such as large print, Braille and/or audiotaped. They need to be written clearly and simply to assist people with learning disabilities. Communication access for people who are hearing impaired and deaf also needs to be provided. You may need to go over the material verbally or assist the applicant with filling out the application and other needed forms.

REASONABLE MODIFICATION

After the person with a disability has become a tenant, he or she may request a modification to their unit in order to enjoy full use of it. Examples of modifications requested may include: building a ramp over the front steps to enter the dwelling; widening a doorway to the kitchen, bedroom, or bathroom; installing grab bars in the bathroom; or removing a piece of carpet.

The modifications made are paid for by the tenant. You may require the unit be restored

To its original condition when the tenant moves. You may require the tenant to pay into an interest bearing escrow account, over a period of time, a reasonable amount of money not to exceed the cost of restorations. You may **not** ask for an increased security deposit.

Modifications made in public-assisted housing may need to be paid for by the owner, depending on financial resources. In federally funded public housing, the tenant is usually not required to pay for modifications as a reasonable accommodation.

ENFORCEMENT AND PENALTIES FOR NON-COMPLIANCE

Remedies for a complaint filed against you may result in the following:

- Actual damage, including pain and suffering
- Injunctive relief, which may cover future business activities
- Civil penalties can include:
 - \$10,000 for first offense, \$25,000 for the second offense in a five year
 - Period and \$50,000 for three offenses in a seven-year period.

For questions about a complaint or to file a complaint, contact:

ASSISTANCE

Medina County Fair housing Consortium

144 N. Broadway St., Medina, OH 44256
330-722-9217 * 330-225-4446 * 330-336-6657
TTY/TTD: 330-725-9123
mcfairhousing@medinaco.org

Office of Fair Housing and Equal Opportunity

HUD

Washington, D.C.
1-800-699-9777 or 1-800 927-9275 (TDD)

Ohio Civil Rights Commission

Cleveland Office
216-787-3150

Medina Community Legal Aide

1-800-998-9454 Hot Line

Medina County Bar Association

Attorney referral for nominal fee
330-725-9794

Coalition on Homelessness & Housing in Ohio
888-485-7999