

3RD EDITION



# FAIR HOUSING

*How to Make the Law Wrk for You*



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If legal advice is required, the services of a competent professional should be sought.

*Left cover photo courtesy of James Lieke.*

## A Word From the *Paralyzed Veterans of America*

### FOR MORE THAN 50 YEARS, THE PARALYZED VETERANS OF AMERICA,

a national veterans service organization, has been at the forefront of ensuring quality health care and rehabilitation for its members—veterans of the armed forces who have experienced spinal cord injury or disease. PVA is also an advocate for:

- Research and education addressing spinal cord injury and disease;
- Benefits available to our members and other veterans as a result of their military service; and
- Civil rights and opportunities that maximize the independence of our members and others with a disability.

In addition, PVA, through its National Advocacy Program, strives to promote and protect the legal rights of people with disabilities. The Program does this by working with agencies and organizations at federal, state, and local levels of

government to remove architectural and attitudinal barriers. The Advocacy Program also works for equal access to all modes of transportation, comments on and monitors federal legislation and regulations that affect people with disabilities, and strives to protect the rights of individuals with disabilities when they attempt to rent or own housing.

One example of the program's success is the passage of the Fair Housing Amendments Act of 1988. Through the Advocacy Program, PVA lobbied Congress and the Department of Housing and Urban Development (HUD) to get the bill passed and regulations implemented. The law, which became effective on March 12, 1989, protects people with disabilities in the sale or rental of housing.

As part of its work to ensure that all Americans have equal access to housing, PVA has created this publication to explain the rights of and remedies for all individuals with disabilities when they seek housing opportunities.



# Introduction

## What does “fair housing” mean?

Maybe the following story will help you to understand.

Several years ago, Bob set out to look for his first apartment. Being a wheelchair user, Bob needed a place that could accommodate his wheelchair. Like other people, Bob searched through newspaper ads and drove by a few places. Then he found one that looked really nice. It was a ground floor apartment, not too far from his job, and it had only one step to

the front door. The step was a minor barrier that could be dealt with by constructing a small ramp. He filled out an application and arranged for an interview with the apartment manager.

When Bob arrived for his interview, the apartment manager began to ask questions that made Bob feel uncomfortable: “What will you do if there is a fire?” “How will you get your groceries into the apartment?” “What will happen if you fall out of your wheelchair?” “Won’t you have a problem getting over that step?”

Bob assured the manager that if there was a fire, he’d have enough sense to leave the apartment. He could manage his groceries and getting in and out of his chair on his own. As for the step, Bob told the manager that he intended to pay someone, out of his own pocket, to build a small ramp. The manager took the application and told Bob that someone would call to let him know if his application had been approved.

*Accessible entrance ways, such as ramps provided to elevators, are required in new construction by the Fair Housing Amendments Act.*



After several days had passed, Bob called back and was told the apartment had been rented. He was also informed that the company that owned the building would not allow the addition to the structure in the form of a ramp. It believed the ramp was a potential safety hazard and would also bother the other tenants.

### Why isn't there a law against this type of discrimination?

Unfortunately for Bob, he began his apartment search before the 1988 Fair Housing Amendments Act passed. When he began searching, there was no protection against this type of discrimination unless the apartment building received some form of federal financial assistance or the state or local housing antidiscrimination law protected people with disabilities.

Now, Bob and other people with disabilities have protection from discrimination in the sale or rental of housing. The law that provides this protection, the Fair Housing Amendments Act of 1988 (FHAA), was signed into law on September 13, 1988, and went into effect on March 12, 1989. People like you and Bob hold the key to this law's success in opening up new housing opportunities.

The federal government cannot possibly look at every housing activity going on across the nation. Because of this, discrimination by housing providers often goes undetected and uncorrected. This means the federal government relies on you, the individual, to raise concerns and file complaints or sue if you believe your rights have been violated.

*Installing mailboxes at varying heights makes it easier for an apartment complex to accommodate a tenant's need to receive mail.*



## TO UNDERSTAND THE FAIR HOUSING AMENDMENTS ACT,

let's look at the original 1968 Fair Housing Act.<sup>1</sup> Title VIII of this statute prohibits discrimination in housing sales, rentals, or financing based on:

- Race;
- Color;
- Religion;
- Sex; or
- National origin.

The 1988 FHAA added handicap and familial status to this list. The FHAA defines “handicap” with respect to a person as:

1. Physical or mental impairment that substantially limits one or more of such person's major life activities;
2. A record of having such an impairment; or
3. Being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance (as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802).<sup>2</sup>

This is the same definition used in the Rehabilitation Act of 1973. If you use a wheelchair or other mobility device, or require a service animal or personal-care attendant, this law protects you from housing discrimination. If you have a record of a mental or physical disability or you are treated as if you have such an impairment, you are covered also. People who currently illegally use drugs are NOT covered.

*It is unlawful to discriminate against people because they have children or because they have a disability.*



<sup>1</sup>Title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3601 et seq.

<sup>2</sup>Fair Housing Amendments Act of 1988, 42 U.S.C. 3602.

**A** LAW OR STATUTE IS WRITTEN IN GENERAL terms, which are usually broad statements of what should be done. To make a law apply to day-to-day situations, those federal agencies affected by a new law must develop a set of specific rules, called regulations.

The FHAA stresses the role of the Department of Housing and Urban Development (HUD) as the lead federal agency. HUD investigates complaints filed under the FHAA. HUD also administers and enforces the FHAA. The specific roles and processes of enforcement are explained in HUD's regulations for carrying out the FHAA.<sup>3</sup>

The four major sections of these regulations are:

- Prohibited actions;
- Reasonable accommodation;
- Accessibility requirements for existing and new construction;
- Enforcement and compliance.

## Prohibited Actions

Prohibited actions are activities specifically forbidden under the FHAA. For example, refusing to sell or rent to a person because he or she has a disability is against the law. Also, a landlord may not have one lease for people with disabilities and another for other applicants. These actions are illegal.

## Reasonable Accommodation

Reasonable accommodation was first established under Section 504 of the Rehabilitation Act. The fair housing regulation makes it unlawful for a landlord or housing provider to refuse to make rea-

*Accessibility in the kitchen can be one area that promotes a greater sense of worth not only for people with disabilities but for their families as well.*



<sup>3</sup>Federal Reg. 3232 (January 23, 1989)(codified at 24 CFR Part 14 et al.).

sonable changes in rules, policies, services, or practices when these accommodations are necessary to allow a person with a disability an equal opportunity to use and enjoy the housing.

For example, an apartment building provides parking for tenants on a first-come, first-served basis. It would be considered a reasonable accommodation to require the landlord to change this policy to provide reserved parking spaces, close to an accessible route, for tenants with mobility impairments.

### Accessibility Requirements for Existing Structures

Accessibility requirements for existing and new structures are the basic designs that allow people with disabilities access to and use of housing. People with

disabilities understand the need to make personal modifications to their living environments. These modifications are often specifically tailored to the individual's needs; thus, the law requires that landlords allow tenants to make reasonable changes or modifications to their units. These modifications may be made to the interior of the tenant's unit and to common areas where they are necessary. The tenant must pay the cost for modifications unless the housing provider receives funding from the federal government.

Examples of modifications:

- Installing grab bars in the bathroom;
- Lowering or removing kitchen cabinets;
- Installing a visual door bell or fire alarm;
- Removing a bathtub to install a roll-in shower; or
- Widening a doorway to the building laundry room.

Also, the law allows the landlord to set the following conditions before giving permission for modifications:

1. The tenant agrees to restore the unit to its prior condition, except for ordinary wear and tear;

*Appropriate modifications to a bathroom give the resident full use and enjoyment of the home.*





2. The tenant provides a reasonable description of the proposed modifications; and
3. The tenant provides reasonable assurance that the work will be done in a workmanlike manner and that all building permits will be obtained.

Under no circumstances can the landlord require people with disabilities to pay an additional security deposit or sign a different lease. In cases where extensive modifications are made, the landlord may require the tenant to put enough money into an escrow account to cover the cost of restoring the interior premises to their original condition. The amount and terms of such an account are determined on a case-by-case basis. An escrow account is not meant to be used to discourage anyone from renting or modifying an apartment to meet his or her needs.

There are three classifications of modifications.

1. Those that will not have to be restored. For example, the doorway to a laundry room, widened to allow access, would not have to be restored since the widened doorway would not affect the use of the laundry room by other tenants.

2. Those that will need to be restored to the original condition but do not require the establishment of an escrow account. For example, an under-the-sink cabinet that had been removed would need to be replaced because the next tenant could want the storage space. Since the cost to replace the cabinet would not be excessive, an escrow account would not be needed.
3. Those that will need to be restored and are relatively expensive and, therefore, may require an escrow account. For example, a roll-in shower would have to be removed and a bathtub reinstalled. Because of the cost associated with restoring the bathroom to its original condition, an escrow account may be required.

*Removing cabinets under counters makes an enormous difference in using kitchens and baths.*



## New Construction

Newly constructed (ready for first occupancy after March 13, 1991) multifamily dwellings with four or more units must provide basic accessibility for people with disabilities. The law requires each building to have at least one building entrance on an accessible route. Public areas (such as a lobby) and common-use areas (such as a swimming pool) must be readily accessible to and usable by people with disabilities. In addition, all doors within the building must be wide enough to allow a person using a wheelchair in or out. Each unit in the building should have:

- An accessible route into and through it;
- Light switches, thermostats, and other controls located low enough for a person using a wheelchair to reach them;
- Sufficient reinforcement (studs) in the bathroom walls to allow a tenant to install grab bars where needed; and

- Kitchens and bathrooms designed so that a wheelchair user can maneuver within the space.

For buildings without elevators, only the ground floor units need to provide these features. In buildings with elevators, every unit must include these adaptive design features.

ANSI 117.1, the Fair Housing Accessibility Guidelines, and the Americans with Disabilities Act (ADA) provide frameworks for meeting these requirements.

## A Note about Renovations

The FHAA does not require buildings occupied before March 13, 1991, to make public and common-use areas accessible during renovations. However, Title III of the Americans with Disabilities Act does require removal of barriers in areas of public accommodation—such as the rental or sales office—if it is readily achievable.

*Installing braille signage and an elevator that audibly denotes the floors is important for ensuring accessibility for someone who has a visual impairment.*



**T**HE FHAA IS A CIVIL RIGHTS LAW. AS WITH all civil rights laws, its enforcement and compliance require the involvement of individuals who are willing to stand up for their rights and call attention to possible violations. In other words, unless individuals who are discriminated against complain, progress in housing will depend on voluntary compliance by landlords or action by the federal government through HUD.

The FHAA covers both privately owned housing and housing subsidized by federal funds. Property owners, landlords, housing managers, real estate agents, brokerage service agencies, and banks have to comply with the FHAA. As you can see, there are literally thousands of housing developments and providers that must comply. Without the help of people who are affected, the federal government cannot possibly supervise all of the covered entities.

## The Complaint Process

**Filing a Complaint.** If you believe you have been denied housing because of your disability, you may file an administrative complaint with HUD or a lawsuit in state or federal court.

Administrative complaints must be made within one year of the date on which the discriminatory act occurred or terminated.

- *Example 1:* You have a visual impairment and have asked to be shown an apartment. The manager tells you that there are currently none available. You ask to be placed on a waiting list for the first available unit and she agrees to notify you. The next week, you learn that an apartment was available at the time of your visit and that it was rented to the next applicant. This is a clear case of discrimination, and you can file a complaint up to one year after the day you asked to tour the unit.

- *Example 2:* You have had an ongoing complaint with the management of your residence over accessible parking. Although you have worked diligently to have a space set aside for your use in a complex with a first-come, first-served policy, the management has steadfastly refused to accommodate you. A complaint can be filed at any time from the first day the problem started throughout your efforts at resolution if the act was discriminatory.
- “I can’t sell you one of the homes we’re building because you will require too many expensive modifications.”
- “We have a ‘no pets’ rule and that includes your guide dog.”
- “Since you were in an institution, you won’t be safe living by yourself.”
- “Since you used to be a drug addict, I’m afraid you’ll be a danger to our other tenants.”
- “You won’t be able to get out of the apartment if there’s a fire because you’re in a wheelchair.”<sup>4</sup>

## Discrimination

Sometimes recognizing discrimination is easy. The rental office might tell you directly: “We don’t allow people with disabilities to live here.” But more often discrimination is subtle and difficult to recognize. Listed below are some examples of less obvious discrimination.

- “You can’t live here, there’s no one to take care of you.”
  - “I’d like to rent to you, but my insurance will go up.”
  - “I can’t rent to you because you’re deaf and can’t hear when the fire alarm goes off.”
- Any person who claims discrimination may file a complaint in person, over the telephone, or by mail. If you file a complaint by telephone, the HUD office will put your complaint in writing and send it to you for signature. In such a case, the date of filing would be the date of the phone call. If the state or local area in which you live has a fair housing law that is substantially equal to the federal law, you may file your complaint with the agency assigned to enforce these local laws. If you do not know whether your state or local

<sup>4</sup> What Does Fair Housing Mean to People with Disabilities? 1994, Bazelon Center for Mental Health Law, p.4.

government has such a law, simply file your complaint with a HUD office. Whenever the complaint alleges discrimination within a jurisdiction that has a law equal to the federal law, HUD will refer the complaint to the local agency for investigation.

Each complaint must contain the following information:

- The name and address of the complaining party;
- The name and address of the person who committed the alleged violation;
- A description and address of the dwelling involved; and
- A concise statement of the facts, including pertinent dates.

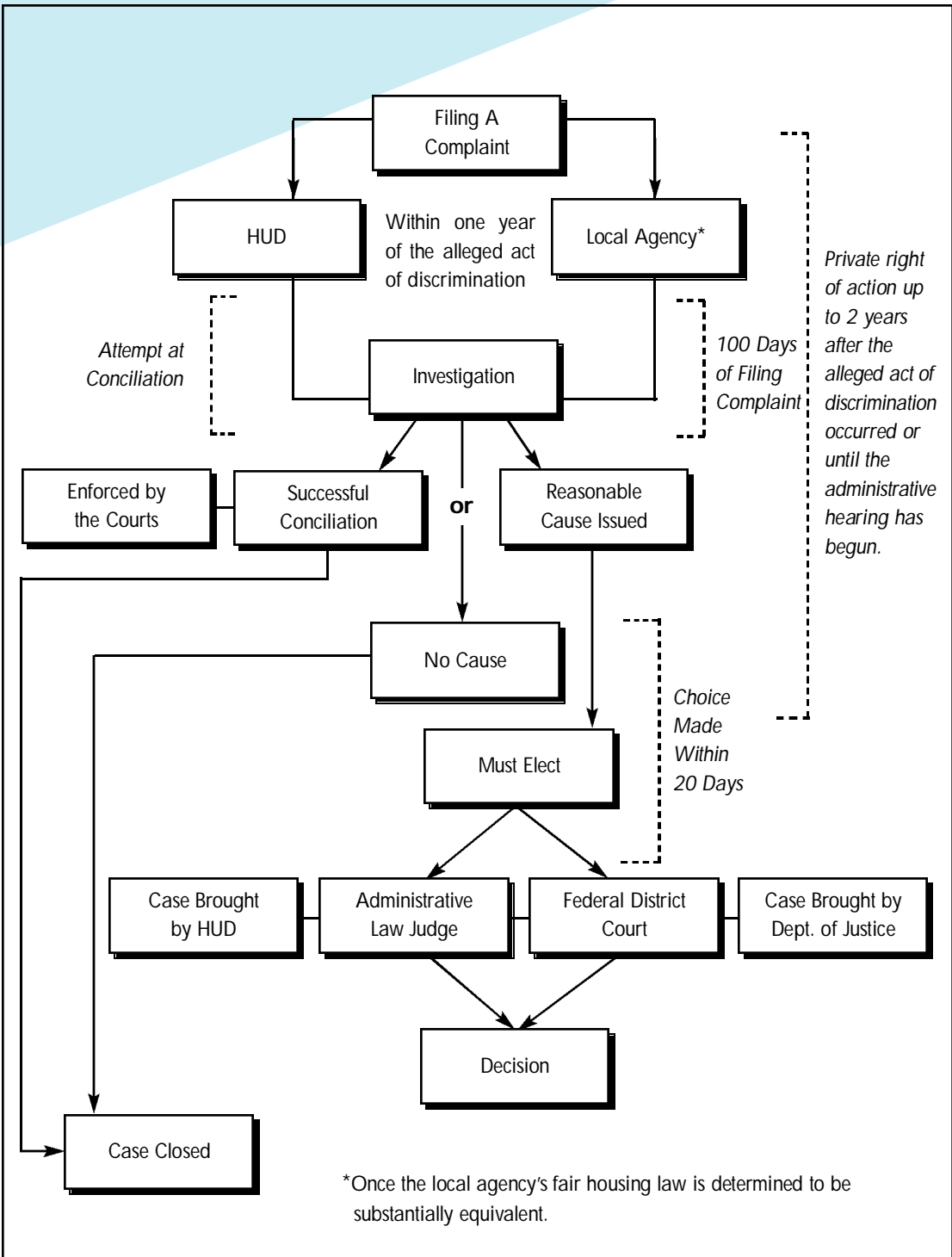
Be sure to keep a copy of your complaint and all documents, contracts, leases, brochures, or any other papers related to it. Describe as clearly and accurately as you can what you believe was discriminatory, including all dates.

Lawsuits may be filed in federal district court and must be filed within **two years** of the date the discriminatory act took place. The FHAA does not require you to notify or file a complaint with HUD before filing a lawsuit. If

you file a complaint with HUD, you do not have to go through the entire administrative process before filing suit. If you cannot afford an attorney, the FHAA authorizes the court to appoint a lawyer to represent you.

If you want, you can file a lawsuit *and* an administrative complaint with HUD. If you choose to do this, the two processes will continue until the lawsuit goes to trial. Once the trial begins, HUD *must* cease investigating the complaint. In some cases, at the discretion of the judge, the trial date may be deferred until the HUD investigation has been completed.

HUD (or the local agency) is required to reasonably accommodate or assist any individual who wishes to file a complaint through every step of the process. For example, the agency must provide an interpreter as needed for people with hearing impairments and braille or taped materials for people with visual impairments. The agency must also provide assistance with filing a complaint and ensure that conferences or other meetings are held in accessible buildings.



**A** STANDARD COMPLAINT FORM IS PROVIDED AT THE BACK OF THIS BOOKLET. IF YOU FEEL YOU HAVE BEEN DISCRIMINATED AGAINST, YOU MAY USE THIS FORM TO FILE A COMPLAINT WITH HUD. CHECK YOUR LOCAL PHONE DIRECTORY FOR THE ADDRESS AND PHONE NUMBER OF THE NEAREST HUD OFFICE. INFORMATION ON HOW TO CONTACT HUD HEADQUARTERS IS PROVIDED ON PAGE 23. OTHER HELPFUL SOURCES ARE ALSO PROVIDED AT PAGE 23.

### Complaint Investigation

Once HUD (or the local agency) receives your complaint, an investigator will be assigned to the case. At this point, an investigation will begin to determine whether there is reasonable cause to believe a discriminatory housing practice has occurred. HUD must investigate all jurisdictional complaints. This investigation should be concluded within 100 days. If the investigation is not completed within this time, HUD must notify, in writing, the concerned parties and state the reason for the delay.

During the investigation period, efforts will be made to resolve the case through conciliation (voluntary agreement). Once an agreement or settlement is reached, HUD may request that the agreement be

enforced by asking the Department of Justice (DOJ) to institute a civil suit in federal court if either party does not honor the agreement.

Also, the individual who filed the complaint may go directly to court to enforce the agreement.

If no agreement can be reached, upon conclusion of the investigation HUD will make a determination. If HUD does not find reasonable cause the complaint will be dismissed. If HUD does find reasonable cause, a formal complaint will be issued.

Where the state or local agency is acting to enforce its own housing discrimination law, HUD is required to defer its resolution of the complaint until it has been resolved locally.

### HUD Enforcement

Where there is proof that housing discrimination has occurred, HUD will issue a charge on behalf of the aggrieved person and become the plaintiff in the case. Within 20 days of HUD's issuing a charge, either party can request that the case be filed in federal district court. Also, either party can request a jury trial. If a court trial is requested, HUD will notify the Attorney General and the Department of Justice will prosecute the case.

If the case does not go to court, it will proceed through the administrative process. Once this process has begun, you cannot file suit in court. After a prehearing discovery period, the case will be presented before an administrative law judge (ALJ) appointed by HUD. The ALJ is required to make a decision within 60 days of the hearing. The ALJ's decision is just as binding as the court's, but the process is often quicker. As the court is subject to review at the appellate level, the ALJ is subject to review by the Secretary of HUD and, ultimately, the federal courts.

If the ALJ finds in your favor, the following kinds of relief are possible:

- An end to the discriminatory housing practice;
- Access to the dwelling;
- Reimbursement or payment of your out-of-pocket expenses and lawyer's fees;
- Payment for damages, humiliation, or loss of civil rights; and
- Civil penalties ranging from \$10,000 to \$50,000.

*Custom-designed closets and storage spaces make it easier for someone with a disability to organize the apartment.*





## THE INTENT OF THE FAIR HOUSING AMENDMENTS ACT

is to provide people with disabilities with enhanced opportunities to find and enjoy suitable housing. This Act gives people with disabilities the private right of action to enforce the law and puts the federal government on the side of those who may suffer from discrimination.

As you attempt to obtain housing, if you feel something is not right or if you think someone might be discriminating against you, keep a record of events. This may be done by keeping a simple diary summarizing conversations and telephone calls. Keep copies of letters or other materials related to the housing transaction. All this can be useful in an investigation, should one become necessary.

It is critical to remember that federal agencies are under increasing pressure to reduce their budgets. In addition, many officials who are responsible for enforcing the Fair Housing Amendments Act,

including HUD staff, may not realize the specific needs of people with disabilities. This means that effective realization of the goals of the Act will depend on your input and direct action. Stay informed and raise your concerns when you believe you have been discriminated against.

### Other Laws Protecting the Housing Rights of People with Disabilities

The FHAA is not the only law protecting your housing rights. Several other federal laws forbid discrimination based on disability. Many require buildings and facilities to be accessible. It is helpful to know just how these laws protect your rights. In some situations, one of them may protect your housing rights more fully than the FHAA. Three of the most useful are described below.

### *The Architectural Barriers Act of 1968*

This law applies to buildings and facilities that, after August 1968, are owned, leased, or financed (partly or entirely) with federal funds. This includes public housing. This Act requires any new construction or alterations to meet the Uniform Federal Accessibility Standards found at 24 CFR Part 40. The requirements of § 504 of the Rehabilitation Act of 1973 (24 CFR Part 8) may also have to be met.

### *Section 504 of the Rehabilitation Act of 1973*

This law forbids discrimination on the basis of disability in any program or activity that is conducted by the federal government or that receives federal financial assistance. It covers a range of federally assisted programs, such as employment, education, housing, and health. Examples of housing that must meet Section 504 standards are public housing, subsidized housing, and housing that accepts federal rental certificates or vouchers.

Section 504 served as a model for the FHAA. The concept of reasonable accommodation began under Section 504. A key difference is that under Section 504, the property owner must pay for reasonable modifications to make a dwelling

unit accessible. However, Section 504 applies only to housing that receives financial assistance from the federal government. It does not apply to the private housing market.

### *The Americans with Disabilities Act of 1990*

The ADA is a comprehensive civil rights statute that prohibits discrimination against individuals with disabilities in employment, public services, public accommodations, transportation, and telecommunications.

The FHAA, Section 504, and ADA overlap in some areas. For example, if a town uses only its own tax money to create housing for consumers with disabilities, Section 504 would not apply to this housing. However, the housing would have to meet FHAA and ADA requirements.

In addition, some nontraditional housing, such as shelters for people who are homeless or who are victims of abuse, are clearly covered by the ADA. Some judges have been reluctant to apply the FHAA to shelters because they are not considered permanent housing. Drop-in centers for mental health care consumers are also covered by the ADA, and the DOJ has determined that zoning board decisions about such centers and shelters must comply with the ADA.

# Fair Housing Amendments Act: *Questions and Answers*

## **I'm afraid to file a complaint. Do I have any protection if I file a complaint?**

*Yes. No one can threaten or try to stop you from exercising any of your rights provided under the FHAA. FHAA also protects anyone who assists or encourages others to exercise their rights under the Act.*

## **Are single-family homeowners seeking to sell or rent their homes exempt from FHAA?**

*No. The only exceptions are rare cases when a single-family homeowner is selling his or her home without agents or advertisements. Newly constructed single-family homes do not have to meet the new construction requirements under the FHAA.*

## **How are townhouses covered under this law?**

*In terms of purchase or rental of a townhouse, a person with a disability cannot be denied an opportunity to buy or rent. As long as all of the townhouses in a development are single-level, they are covered by the FHAA.*

*However, HUD has taken the position in its regulations that townhouses generally do not meet the definition of a multifamily dwelling. The accessibility standards required of new construction would not apply to developments with more than one level with no elevator. However, if the person with a disability is buying a townhouse being constructed by a developer and wishes to cover the costs of accessibility modifications, then the developer cannot refuse to make such modifications.*

## **Are individuals who have a history of drug or alcohol addiction protected under the FHAA?**

*People who have alcohol or drug addictions as their disability are protected under FHAA. However, if their current use of the substance is illegal or they are unable to meet their obligations as a tenant, they could be denied housing because they are no longer considered qualified. Any claim that a person's tenancy poses a direct threat to other tenants must be founded in fact and not based on speculation or hearsay.*

**Does a newly constructed two-story apartment complex, without an elevator, have to provide access to the second floor?**

*If the building is constructed for first occupancy after March 13, 1991, and if the building has four or more units and no elevator, only the ground-floor units and public and common-use areas must be accessible. In addition, tenants on the ground level must be provided with amenities equal to those provided to tenants on the second floor. For example, if tenants are provided with laundry rooms on the second floor, then laundry rooms must also be provided in an accessible place on the ground floor. This may be accomplished in a number of ways, including placing laundry machines in the ground-floor apartments.*

*Automatic doors allow for independent use by individuals with disabilities and are good universal design.*



**I was told by the developer of a new apartment complex that the project and the units are constructed to comply with the ANSI A117.1 Standard. Is the project in compliance with the FHAA?**

*The FHAA allows some flexibility for construction and design of housing, as long as the basic accessibility requirements are met. The FHAA requires less than ANSI; therefore, if the developer follows ANSI, the project would be in compliance with the FHAA.*

**What other federal guidelines would indicate compliance with FHAA?**

*On March 6, 1991, HUD adopted the Fair Housing Accessibility Guidelines (24 CFR 100.205) to provide technical guidance for the design of dwelling units. As long as the developer follows ANSI, the Guidelines, or a comparable standard, the project would be in compliance.*

**What is a comparable standard?**

*Builders and developers may choose to depart from ANSI A117.1 or the Accessibility Guidelines and seek alternate ways to demonstrate that they have met the requirements of the FHAA. If they can prove compliance with the FHAA, a comparable standard exists. Although compliance with the ANSI Standard or the Accessibility Guidelines is not mandatory, compliance with one of them guarantees compliance with*

the FHAA and would eliminate the burden of proving that a comparable standard has been met.

### **Can a landlord legally require a person with a disability to pay an extra security deposit?**

*No. A landlord may not increase the amount of a security deposit of a tenant simply because he or she has a disability. If the tenant is planning to make extensive modifications to the unit for greater accessibility, the landlord may require a reasonable amount to be placed in an escrow account to guarantee the restoration of the unit to its original condition.*

### **A friend told me that because I live in a public housing project, it would be better to file a discrimination complaint under the FHAA rather than Section 504 of the Rehabilitation Act, because I can be awarded monetary damages under FHAA and not under Section 504. Is my friend correct?**

*For the most part, your friend is correct. However, the scope of the requirements a housing provider must meet are set out differently. For example, if you were to file a discrimination complaint against a housing provider who refused to allow you to modify an existing unit and that provider received federal financial assistance, the remedies you could seek under Section 504 are different than those under the*

*FHAA. Under the FHAA, you could seek some monetary relief and force the landlord to allow you to make modifications at your expense. However, under Section 504, the landlord could be required to pay for the modifications. As a general rule, if you are unsure of whether or not federal financial assistance is involved, file the complaint under both Section 504 and the FHAA.*

### **Can a landlord ask specific questions about my disability?**

*No. However, the manager of subsidized housing can ask for information about your disability to determine whether you are eligible for housing designated specifically for people with disabilities or if you are eligible for a federal preference because of your disability.*

### **I have recently rented an apartment in a multifamily building and the landlord is allowing me to modify my bathroom by installing a roll-in shower and widening the doorway, but has refused my request to ramp the main entrance to the building. Is this legal?**

*No. A landlord cannot refuse to allow a tenant with a disability to make modifications, at the tenant's expense, to the tenant's unit as well as to common-use areas. The landlord can require the tenant to restore the unit back to its original condition but cannot require the door to be narrowed. Also, any*

*modification to the common-use areas need not be restored at the end of tenancy. (Note: The landlord cannot require the modification to exceed a reasonable cost, such as requiring more expensive material, but can only require that the work complies with the building code.)*

**I have just applied for an apartment in a multistory building with an elevator and the managing agent has informed me that I will have to wait for a ground floor unit because of my child's disability. I do not want to live on the ground floor. Can the agent limit my choices?**

*No. The management may not maintain policies that limit the housing choices of people with disabilities.*

*All parts of an apartment complex that are for the use and enjoyment of the residents must be accessible.*



**My Cooperative Board has refused to allow my husband, who uses a wheelchair, to use the swimming pool despite his ability to access the pool independently. What action can we take?**

*Your husband has a right to use the swimming pool or any other facility available to other tenants. The board cannot limit your husband's use of the pool based on its perception that individuals with disabilities cannot participate in certain activities. If the board continues to deny access, you can file a discrimination complaint with HUD or a lawsuit.*

**I recently became blind and the building I have been living in for years has a "no pets" policy. Can they forbid me from getting a dog?**

*If your dog is a guide or service animal, your landlord must waive the policy and allow you to have the dog.*

**Can a building manager ask me how I will function in my apartment? Specifically, can he ask how I will cook, clean, throw out the garbage, or open the doors and windows?**

*No. A manager cannot ask questions that pertain to your ability to live independently or how you will accomplish certain tasks. However, the manager may ask questions concerning your ability to pay rent and your past history as a tenant, provided he asks these questions of all applicants.*

# Some Helpful Terms and Resource Information

The following is a list of legal terms often used during the enforcement process.

**Accessible Public and Common-Use Areas**, of a building containing covered multifamily dwellings, are public and common-use areas that individuals with physical disabilities can approach, enter, and use. A public or common-use area that complies with the appropriate requirements of the Accessibility Guidelines, ANSI A117.1, or a comparable standard is “accessible” within the meaning of the FHAA. In both publicly and privately owned buildings, the following definitions apply:

**Common-Use Areas** are the interior or exterior rooms or spaces that are available for use by the tenants or residents and their guests.

**Public Areas** are the interior or exterior rooms or spaces that are made available to the general public, such as the

rental or sales office or meeting rooms open to the public.

**Adaptable Dwelling Units**, when used with respect to multifamily dwellings covered under the FHAA, are dwelling units that include the features of adaptable design specified in the FHAA.

**Aggrieved Person** means anyone who claims to have been injured by a discriminatory housing practice.

**ANSI A117.1-1986** is the 1986 edition of the American National Standard for buildings and facilities providing accessibility and usability for people with physical disabilities.

**Burden of Proof** is the obligation of one party to establish that the other party is liable under the law. Usually the burden of proof rests with the party initiating the action.

**Complainant** is the person (including the Secretary of HUD) who files a complaint.

**Conciliation** is the attempt to resolve the problems raised by a complaint through informal and voluntary negotiation between the aggrieved person, the respondent, and the Secretary of HUD.

**Covered Multifamily Dwellings** are buildings that have four or more dwelling units. In buildings that have one or more elevators, all dwelling units are covered under the FHAA. In buildings without elevators, only ground-floor units are covered.

**Disability** means a physical or mental impairment that substantially limits one or more major life activities (such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working). It includes a record of having such an impairment or being regarded as having such an impairment. The term does not include current illegal use of drugs.

**Disparate Impact** means practices that appear to be neutral but, in fact, fall more harshly on one group than another group. For example, the landlord requires rent to be hand-delivered to the rental office, which has steps to the entrance. Although the policy is applied to everyone, it would have a disparate impact on people with mobility impairments.

**Disparate Treatment** means that some people are treated less favorably than others because of a disability.

**Dwelling Unit** is a single unit of residence for a household or one or more persons. Examples of dwelling units covered by these guidelines include condominiums, single apartment units within an apartment building, and other types of units in which sleeping accommodations are provided but toilet or cooking facilities are shared by occupants of more than one room or portion of the dwelling. Examples of the latter include dormitory rooms and sleeping accommodations in shelters intended for occupancy as a residence for homeless people.

**Prevailing Party** is the individual or entity that has been proven to be correct in a case. The prevailing party may be the complainant or the respondent.

**Readily Achievable** means easily accomplished and able to be carried out without much difficulty or expense.

**Reasonable Cause** means that, after an investigation, there is sufficient evidence to believe discrimination has occurred, and the matter can now proceed to the courts.

**Respondent** is any person or entity accused in a discrimination complaint or found during an investigation to be committing an unfair housing practice.

*continued on inside back cover*



**Secretary** means the Secretary, U.S. Department of Housing and Urban Development.

**Tenancy** is your occupancy of any housing when you pay (or someone pays on your behalf) rent or the purchase price.

## Where to File a Complaint

All complaints can be filed through the HUD Complaint Office at its headquarters in Washington, DC.

*HUD-Fair Housing and Equal Opportunity (FHEO)  
Office of Investigations  
451 7th Street, SW  
Washington, DC 20410  
(202) 619-8041*

For more information about how to file a complaint, to obtain additional forms, or for additional information about the FHAA, call:

*Fair Housing Clearing House  
(800) 343-3442*

## For More Information about Your Housing Rights, Contact:

Note: Sources that do not include TTY numbers are accessible through the nationwide TTY relay.

*HUD FHEO Office:  
(202) 708-2878*

*HUD Housing Discrimination  
Hotline: (800) 669-9777  
TTY (800) 927-9275*

*The Housing Enforcement Office of  
the U.S. Department of Justice:  
(202) 514-4713*

*National Fair Housing Alliance:  
(202) 898-1661*

*Your state Protection and Advocacy  
(P&A) system.  
To locate, call:  
(202) 408-9514  
TTY (202) 408-9521*

*Local legal services offices, National  
Legal Aid and Defender Association:  
(202) 452-0620*

*The Bazelon Center for Mental  
Health Law:  
(202) 467-5730  
TTY (202) 467-4232*

*Disability Rights Education  
and Defense Fund:  
(800) 466-4232*

*National Housing Law Project and  
National Homelessness Project of the  
Legal Services Corporation:  
(202) 463-9461*



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**PARALYZED VETERANS**  
**OF AMERICA**

801 Eighteenth Street, NW  
Washington, DC 20006-3517  
(202) 872-1300 • (202) 416-7622 tty • (202) 785-4452 fax  
(800) 424-8200 • (800) 795-4327 tty  
[www.pva.org](http://www.pva.org)