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Chester County Department of Community Development

TD Banknorth



Fair Housing Council of Suburban Philadelphia  
225 S. Chester Road, Suite I  
Swarthmore, PA 19081  
Phone: 610-604-4411  
Toll Free: 866-540-FAIR (3247)  
information@fhcsp.com  
www.fhcsp.com

# A Fair Housing Guide for Persons With Disabilities



Serving Bucks, Chester, Delaware, Montgomery  
and Philadelphia Counties



Fair housing law makes it illegal to discriminate in any type of housing related transaction on the basis of race, color, religion, national origin, gender, familial status, and disability.

This guide was developed to assist consumers to better understand the rights of people with disabilities under the Fair Housing Act, and to increase a consumer's ability to detect behavior that might be discriminatory.

If you believe you may be a victim of discrimination, contact the Fair Housing Council of Suburban Philadelphia:

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## WHAT TO DO IF YOU ENCOUNTER DISCRIMINATION

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## FURTHER READING

Joint Statement of the U.S. Department of Housing & Urban Development and the U.S. Department of Justice on reasonable accommodations:  
[http://www.usdoj.gov/crt/housing/jointstatement\\_ra.htm](http://www.usdoj.gov/crt/housing/jointstatement_ra.htm)

Joint Statement of the U.S. Department of Housing & Urban Development and the U.S. Department of Justice on reasonable modifications:  
[http://www.hud.gov/offices/fheo/disabilities/reasonable\\_modifications\\_mar08.pdf](http://www.hud.gov/offices/fheo/disabilities/reasonable_modifications_mar08.pdf)

Fair Housing Accessibility First:  
[www.fairhousingfirst.org](http://www.fairhousingfirst.org)

## GROUNDS FOR REJECTION OF AN APPLICANT OR EVICTION OF A TENANT

If the tenant or prospective applicant refuses or is unable to comply with the tenancy rules that apply to all tenants, or if the tenancy would pose a direct physical threat to the health or safety of others, then the housing provider can reject that applicant or evict that tenant.

## ACCESSIBILITY & NEW CONSTRUCTION

Under the Fair Housing Act, single story units in new multifamily housing built for first occupancy after March 13, 1991 must be accessible if the buildings contain four or more units and if the units are either located on the first floor or are served by an elevator. To comply with the accessibility requirements of the Fair Housing Act, the housing must include the following features:

- An accessible building entrance on an accessible route
- Accessible public and common-use areas
- Doors that allow passage by a person in a wheelchair
- Accessible route into and through the dwelling unit
- Light switches, thermostats and other environmental controls in accessible locations
- Reinforcements in bathroom walls for later installation of grab bars
- Kitchens and bathrooms that allow a wheelchair to maneuver about the space



## FAIR HOUSING LAW

### The Fair Housing Act

Title VIII of the Civil Rights Act of 1968, as amended, is known as the Fair Housing Act. The Fair Housing Act prohibits discrimination in housing on the basis of race, color, religion, national origin, gender, disability and familial status (households with children under the age of 18).

### The Pennsylvania Human Relations Act

The Pennsylvania Human Relations Act is the state law that also prohibits discrimination in housing on the basis of race, color, religion, gender, national origin, familial status, age (above 40), and disability.

### Other Disability Laws

- Section 504 of the Rehabilitation Act states that no otherwise qualified individual with a disability may be discriminated against in any program or activity receiving federal financial assistance.
- The Americans with Disabilities Act (ADA) is a broad civil rights law guaranteeing equal opportunity for individuals with disabilities in employment, public accommodations, transportation, state and local government services, and telecommunications.
- The Architectural Barriers Act states that all buildings, other than privately owned residential facilities, constructed by, on behalf of, leased by the federal government, or buildings financed in whole or in part with federal funds must be physically accessible for persons with disabilities.

## DISABILITY DEFINED

A disability is defined in the Fair Housing Act as a physical or mental impairment that substantially limits one or more of a person's "major life activities." Major life activities can include caring for one's self, walking, seeing, hearing, speaking, breathing, learning, and working. If you require the use of a walker, a wheelchair, a service animal, or a personal-care attendant, you are protected under the law against housing discrimination. Disabilities also may include mental or emotional illness, difficulties associated with aging, HIV/AIDS, recovering alcoholism or drug addiction.

The Fair Housing Act does not protect those who use drugs illegally. Only people who have successfully completed a treatment program are covered under the law.

## DISABILITY PROVISIONS OF THE FAIR HOUSING ACT

It is against the law to do any of the following based on disability:

- Refuse to rent or sell housing
- Refuse to negotiate housing
- Make housing unavailable or deny that housing is available
- Set different terms, conditions or privileges for the sale or rental of housing, a mortgage, home loan, home insurance or any other real estate transaction
- Advertise in a discriminatory manner
- Threaten, coerce or intimidate anyone exercising a fair housing right or assisting others in exercising those rights
- Refuse to make reasonable accommodations or modifications

## QUESTIONS A HOUSING PROVIDER MAY ASK A PROSPECTIVE TENANT

Housing providers may inquire into an applicant's ability to meet tenancy requirements. This means a landlord may ask whether you have sufficient income to be able to pay the rent, whether you are willing to comply with the building's rules, and other questions relating directly to tenancy. A housing provider may also adopt and apply uniform, objective and nondiscriminatory criteria designed to evaluate a prospective tenant's credit worthiness, such as imposing credit or criminal background checks.

- If a landlord is providing housing designed for and occupied by persons with disabilities or with a particular type of disability, he/she may ask whether you qualify for this type of housing.
- A landlord who provides this type of housing may ask if an applicant qualifies for a priority available to persons with disabilities or with a particular type of disability.



**Any questions asked by a housing provider must be asked to all applicants on an equal opportunity basis, without regard to race, color, religion, national origin, gender, familial status or disability.**

A housing provider may not ask:

- If you have any type of disability
- The nature or severity of a disability
- Questions that would require you to waive your rights to confidentiality regarding your medical condition or history
- To see a prospective tenant's medical records

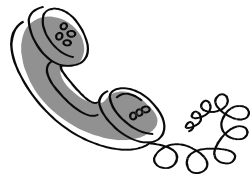
## TIPS FOR WRITING A REQUEST FOR A REASONABLE ACCOMMODATION OR MODIFICATION

Indicate that you qualify as a person with a disability as defined by civil rights laws. It is not necessary to reveal the nature or severity of your disability, unless you feel comfortable in doing so.

- State where you live and who is responsible for the building.
- Describe the policy, rule, or architectural barrier that is problematic to you.
- Describe how this policy or barrier interferes with your needs, rights, or enjoyment of your housing.
- In clear and concise language, describe the change you are seeking in the policy, rule or barrier.
- Cite the applicable law that protects your rights.
  - ◊ For accommodations use: Fair Housing Act Amendments Sec. 804 (42 U.S.C. 3604)(f)(3)(B)
  - ◊ For modifications use: Fair Housing Act Amendments, Sec. 804 (42 U.S.C. 3604)(f)(3)(A)
- Ask for a written response within a certain amount of time.
- Sign and date the request. Remember to keep a copy of your request for your files.



If the request is denied, contact the Fair Housing Council of Suburban Philadelphia at 610-604-4411 or [information@fhcsp.com](mailto:information@fhcsp.com) to determine if your rights have been violated.



## REASONABLE ACCOMMODATIONS

A reasonable accommodation is a change in rules, policies, practices, or services that enables a person with a disability equal opportunity to use and enjoy a dwelling. A person with a disability must notify the housing provider if they need a reasonable accommodation, and the housing provider must grant the request if it is reasonable. There must be a connection between the disability and the need for the accommodation. Typically, accommodations will be a matter of negotiating what will serve both the housing provider and the disabled person best.

**Example 1:** A woman with a visual impairment has a guide dog. She is applying to an apartment building with a no-pets policy. The building manager must allow her to keep the guide dog as a reasonable accommodation if she can provide documentation that she needs the guide dog because of her disability.



**Example 2:** A man with a heart problem can only walk short distances. Although the apartment building has parking on a first come first served basis, the man is allowed to have a reserved space next to his unit.

## REASONABLE MODIFICATIONS

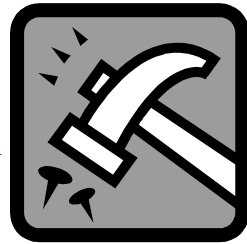
A reasonable modification is a change in the physical structure of a dwelling that enables a person with a disability equal opportunity to use and enjoy that dwelling. In many cases, individualized modifications to a dwelling enable a person with a disability to live in a space that they would be otherwise physically unable to live in. Normally, the expense of the modifications would be the responsibility of the tenant, unless

the housing is federally subsidized (such as a Public Housing Authority). This includes the interior and exterior of a building or a unit, including public and common-use areas.

**Example 1:** A tenant that uses a wheelchair requires a ramp instead to access the entrance of the dwelling. The property management must allow the tenant to make the modifications, at the tenant's expense.

**Example 2:** An elderly man living in an apartment building has a physical impairments due to aging, and requests that grab bars be installed in his bathroom in order to stabilize himself. His landlord must allow the installation, again at the tenant's expense.

Private housing providers can require that the tenant use a certified contractor to do the work, and can require that the tenant restore the dwelling to its original condition upon moving out of the unit if the modification will interfere with the next tenant's use and enjoyment of the premises.



For example, if a tenant has a ramp to the laundry room built in a multi-unit apartment complex, this does not need to be removed because it is located in a common use area and may be beneficial to future tenants. However, if cabinets in the kitchen are lowered to provide more mobility to a wheelchair user, these may be required to be returned to the original condition.

If restorations to the dwelling are necessary when a tenant moves out, a housing provider may negotiate payment by the tenant into an interest-bearing escrow account. Such payments may be made over a reasonable period; the amount must be reasonable and cannot exceed the cost of the restorations. The interest from the account accrues to the benefit of the tenant.

## WHAT IS REASONABLE?

A request for an accommodation or modification is considered reasonable if that request:

- Does not cause an undue financial or administrative burden to the housing provider
- Does not cause a basic change in the nature of the housing program available
- Will not cause harm or damage to others
- Is technologically possible



**Example 1:** It would be unreasonable for a person with a disability to ask that the housing provider assist them with their meals, unless the housing provider were in the business of providing meal support (such as in an assisted living facility).

**Example 2:** If a person becomes disabled and can no longer access their 3<sup>rd</sup> floor apartment in a non-elevator building, it would be unreasonable (and probably architecturally impossible) to request the landlord allow the tenant to build an elevator.

## REQUESTING A REASONABLE ACCOMMODATION

It is the responsibility of the consumer to request that the housing provider make an accommodation or modification, since a provider cannot be expected to predict or anticipate an individual's needs. Although not required by the Fair Housing Act, it is recommended that requests for accommodation or modification should be made in writing for proper documentation and include proof that the consumer has a covered disability and the need for accommodation or modification.