

ACCESS



Housing Opportunities Made Equal, Inc. is a civil rights organization with a mission to promote the value of diversity and ensure all people an equal opportunity to live in housing and communities of their choice. Through education, advocacy, and enforcement of fair housing laws, HOME seeks to ensure that everyone can: have their voices heard on their housing issues; defend and safeguard their rights; and have their concerns genuinely considered when decisions are being made about their lives and housing. Learn more at homeny.org. Get updates about fair housing happenings via Facebook (@HOMEnyinc) or Instagram (@homenyorg).

The work that provided the basis for this publication was supported by funding under a grant from the U.S. Department of Housing and Urban Development (HUD). The substance and findings of the work are dedicated to the public. The author and publisher are solely responsible for the accuracy of the statements and interpretations contained in this publication. Such interpretations do not necessarily reflect the views of the Federal Government.

ADDICTION AND DISABILITY IN FAIR HOUSING LAW

By Steven Haagsma

The Fair Housing Act provides protection from discrimination for many people, and disability protections are some of the broadest of any of the protected classes. A disability is defined as something that impairs one or more major life activities, and substance addiction is among the conditions that falls under this definition.

WHO IS PROTECTED

Anyone who is currently experiencing addiction to a legal substance, such as alcohol, is protected from discrimination on that basis. Additionally, anyone who is in recovery from any addiction, regardless of the legality of the substance, is protected from discrimination on that basis. In other words, a history of addiction cannot be a reason for a landlord to deny you housing, and if you are currently experiencing addiction, you cannot be denied on that basis if the substance is a legal one.

WHO IS NOT PROTECTED

People who are currently using illegal substances are not protected under the Fair Housing Act. This means that if you use an illegal substance, a landlord can choose not to rent to you for that reason. It is also important to note that just because a substance is legal does not mean you have the right to use that substance in rental housing—at least when it comes to smoking. Tobacco, and now marijuana, are not illegal substances but landlords are permitted to have a “no smoking” policy that can apply to either or both of those substances. If you are found to be smoking in a unit with a “no smoking” policy, the landlord may be able to evict you for violating the lease.



WHAT TO DO

If you believe that you have been denied housing because of a current addiction or one that you are in recovery from, contact HOME at 716-854-1400 or info@homeny.org. Being denied housing for these reasons is discrimination and is illegal.



Access is a newsletter focusing on housing and health related issues faced by Western New York residents who have disabilities and/or who are aged 55+. Access is created by HOME (Housing Opportunities Made Equal, Inc.), a nonprofit civil rights and fair housing organization which has been using education, advocacy, and enforcement to fight housing discrimination and homelessness since 1963.

SERVICE AND SUPPORT ANIMALS IN HOUSING

By Steven Haagsma

In our previous issue we explained the basics of reasonable accommodations and modifications and how to request them. Now, let's take a closer look at one of the most common types of accommodation: service or support animals.

SERVICE ANIMALS VS SUPPORT ANIMALS

A service animal is almost always a dog and is specially trained to assist a person with a disability with certain life tasks, like a guide dog that helps a blind person move around. There are certain criteria service animals need to meet—not just any animal can be a service animal.

Support animals, on the other hand, can be any type of animal that assists someone with one or more life activities. They do

not require specific training and there is no certification process for support animals. Often, support animals provide emotional support to someone with a mental health challenge such as depression or post-traumatic stress disorder.

ASKING FOR VERIFICATION

When making any accommodation request, there is no special form to fill out and no magic words to use. All that is required for tenants is to make it clear to their landlord what they are asking for. A landlord can only request verification of the need for a request if it's not visibly apparent why the person needs the accommodation.

(continued on page 2)

(continued from page 1)

With some service or support animals, like guide dogs, the connection between the request and the need is obvious, so in those situations no further proof should be required. With many support animals, however, the need for the accommodation isn't obvious just by looking, so landlords are allowed to ask for proof that the tenant actually needs the accommodation. This proof can be a letter from a medical professional who has worked with the tenant. The letter should state that there is a connection, or nexus, between a person's disability-related need and the accommodation they are requesting. If that connection is established, then the landlord has to grant the request.

HOUSING VS PUBLIC SPACES

It's important to note that housing is different from public spaces like grocery stores or airplanes when it comes to rules about

support animals. While service animals are required by law to be allowed almost anywhere, support animals can be restricted in many public spaces. Housing, however, is not a public space—it is someone's home. Denying someone the right to keep their support animal in their home is effectively denying them access to that animal entirely, so the bar for allowing a support animal in housing is much lower than in other spaces.

IF YOU NEED ASSISTANCE

Denying a request to live with a service or support animal is an act of housing discrimination. If this happens to you, please contact HOME at 716-854-1400 or info@homeny.org. We can also help with drafting accommodation requests to ensure that you are able to live with your service or support animal or with any questions you have about your rights when it comes to reasonable accommodations or any other housing issues. ▲▲▲▲

HOME'S ACCESSIBILITY MODIFICATION PROGRAM: A CASE STUDY

By Brynn Covington

HOME's accessibility modification program launched in 2021 and was implemented to help make homes more accessible for qualified individuals with disabilities within our service area. Community members who applied to our program often conducted inquiries throughout Erie County and were unsuccessful in finding the right resources to secure a modification. Many applicants had previously applied to other agencies or programs but were denied. Applicants were varied in their individual needs for ramps or lifts but shared one thing in common: the need for more accessible housing.

One such applicant to our program was Teresa Doran, a client who had a disability-related need for an accessibility modification. I had an opportunity to interview Teresa about her experience with HOME's program and the impact of her modification, a platform lift installed to the front of her home.

I asked Teresa about her home life, and Teresa was kind enough to guide me through her experiences before the lift installation. In 2017, Teresa moved home after undergoing knee surgery and used a variety of mobility aids, such as a cane and walker, before eventually moving to a wheelchair. In discussing some of the accessibility-related challenges she faced, Teresa told me she transitioned to a power wheelchair to be able to maneuver around her home more easily. However, those mobility aids weren't addressing the issues she was facing in being able to enter and exit her home.

Teresa told me she was searching for help for herself and her mother, who she was taking care of for some time. "We had been getting prices, but couldn't afford," Teresa said. The cost to install a ramp or lift frequently prevents folks in need of an accessibility modification from acquiring them. As we discussed with architect Danise Levine in an earlier edition of Access, financing a modification is the responsibility of a tenant. Financing, in this instance, includes not only having sufficient funds to cover the cost to integrate an accessibility component (eg. a wheelchair lift), but also to hire a design professional, construction service, or similar for the installation. This associated burden of finding qualified, willing contractors can also deter folks from pursuing a unit modification on their own.

When I asked Teresa how she eventually came to learn about HOME's program, she recounted her experience with Western New York Independent Living's NY Connects Outreach Specialist, Giuseppina "Juice" Bugenhagen. HOME partnered with Juice and her team to develop a list of qualified applicants to the program. Teresa established contact with Juice and was able to fill out the application forms to HOME's program. "If it wasn't for Juice I don't think it could have happened. She was my angel," Teresa told me. After filling out some paperwork and telling us her story, Teresa was approved for a lift, which was successfully installed to her home in August of 2021.

"The lift being put in was a lifesaver," Teresa told me. Before the lift installation, Teresa informed me that she was completely housebound and becoming more anxious by the day. Now, Teresa tells me that she has the freedom in her life to do things like go shopping and get her mail without added barriers to her mobility. When I asked Teresa if she would recommend the program to other members of the community who might be similarly prevented from leaving their homes like she was or are looking to make their homes generally more accessible, she said yes. "I would definitely recommend [HOME]. It was the best experience," Teresa said.

Teresa's unique story has a happy ending, but it is one that so many in our community don't experience. HOME's accessibility modification program was funded through the Eliminating Barriers to Housing in New York initiative, a two-year pilot program that ended in December of 2022. Funding for these programs is necessary to allow HOME to continue to provide folks like Teresa in our service area with access to the secure and accessible housing deserved by all. ▲▲▲▲



DESIGN AND CONSTRUCTION UNDER THE FAIR HOUSING ACT

By Olivia Carl

When the Fair Housing Act (FHA) was passed in 1968, it did not include any protections for individuals with disabilities. In 1988, the Fair Housing Amendments Act was passed which extended the coverage of the FHA to include disability as a protected class. With this amendment, the FHA included specific accessibility requirements as part of protections for persons with disabilities.

All covered multi-family dwellings, as well as the covered units within, are required to meet the accessibility regulations under the FHA. Covered multi-family dwellings are defined by the FHA as buildings with 4 or more dwelling units that are newly constructed for the first occupancy on or after March 13th, 1991. Any dwelling constructed before that is not required to comply with the FHA's accessibility standards, however, they are not exempt from laws protecting against disability discrimination, such as making reasonable accommodations or modifications.

There are 7 requirements defined in the FHA for dwellings to be fully accessible. They include the following:

REQUIREMENT #1: ACCESSIBLE BUILDING ENTRANCE ON AN ACCESSIBLE ROUTE

There must be a continuous, unobstructed path connecting accessible elements and spaces in a building or within a site that can be negotiated by a person with a disability. Dwellings must be designed and constructed to have at least one building entrance on an accessible route. This includes accessible parking spaces, access aisles, curb ramps, and walkways.

REQUIREMENT #2: ACCESSIBLE & USABLE COMMON & PUBLIC USE AREAS

Rooms, spaces, or elements inside or outside of a building that are made available for the use of residents of a building or the guests thereof must be accessible. This includes hallways, lounges, lobbies, laundry rooms, and more. Common and public use areas must have an accessible route of at least 36 inches wide and be as level as possible without hazards or obstructions.

REQUIREMENT #3: USABLE DOORS

Accessible dwellings shall be designed in such a manner that all the doors are designed to allow passage into and within all premises. Usable doors include a clear width of at least 32 inches, a low or no threshold, and usable door handles. Usable door handles include lever or push mechanisms, and not any hardware that involves grasping or turning, such as doorknobs.

REQUIREMENT #4: ACCESSIBLE ROUTE INTO & THROUGH THE COVERED DWELLING UNIT

Accessible routes shall be designed and constructed in a manner that all premises contain an accessible route into and through the covered dwelling unit. Accessible routes have a sufficient width of at least 36 inches and must connect clear floor space with the primary entrance of the unit.

REQUIREMENT #5: LIGHT SWITCHES, ELECTRIC OUTLETS, THERMOSTATS, & ENVIRONMENTAL CONTROLS IN ACCESSIBLE LOCATIONS

Light switches, electrical outlets, thermostats, and other environmental controls must be designed and constructed in accessible locations. This excludes circuit breakers, appliance controls, and outlets dedicated for specific appliances. To be accessible, environmental controls must have a minimum height of 15 inches off the ground, a maximum height of 48 inches from the ground, and a 30 by 48-inch clear floor space parallel or perpendicular to the wall for a clear forward approach.

REQUIREMENT #6: REINFORCED WALLS FOR GRAB BARS

Covered dwelling units must contain reinforcements in the bathroom walls to allow for the later installation of grab bars around the toilet, tub, shower stall, and shower seat. This does not mean grab bars have to be installed at the time of construction.

REQUIREMENT #7: USABLE KITCHENS & BATHROOMS

Accessible dwellings are required to contain usable kitchens and bathrooms such that an individual with a disability can maneuver about the space. This includes clear floor space between appliances or fixtures, an accessible route through and into the room, and usable environmental controls.

Please note that the definitions outlined above are not representative of all possible accessibility requirements as the design and construction specifications are extremely expansive and individualized to the type of dwelling, terrain, and disability.

If you have any questions related to the FHA's design and construction requirements, please contact Olivia Carl at ocarl@homeny.org or 716-854-1400 ext. 25.