



HOUSING DISCRIMINATION BASED ON DISABILITY

What are fair housing laws?

In 1968, the federal government passed a law called the Fair Housing Act which prohibits landlords, real estate agents, home sellers, and banks from discriminating against people based on certain characteristics. California has a very similar law, the Fair Employment and Housing Act. In 1988, both the federal government and California changed the laws to prohibit discrimination based on a person's disability.

How do the laws define “disability”?

“Disability” is defined as a physical or mental impairment which substantially limits one or more major life activities, such as caring for one's self, walking, seeing, hearing, learning, or working. The law also protects people who have a history of having a disability or who are regarded by others as having a disability. Some examples of disabilities covered by the laws are mental retardation, major depression, paraplegia, and HIV or AIDS. Alcoholism and past drug addiction are also considered disabilities.

What is discrimination?

Under the fair housing laws, discrimination includes refusing to rent or sell a residence to people with disabilities. People with disabilities cannot be charged higher rent, given stricter rules, or evicted because of their disabilities. As explained below, the laws require landlords to make reasonable accommodations and modifications for tenants with disabilities and to make newly built (1991) housing accessible for people with disabilities. A landlord's failure to comply with these rules is discrimination.

What is a reasonable modification?

Landlords must allow tenants to make physical changes to the residence if necessary because of the tenant's disability. These changes could include widening doorways; installing visual alarms, ramps, or grab bars; or making any other physical modification to the tenant's unit or common areas. In private housing, the tenant has to pay for the changes him/herself, but often city and social service agencies can help low-income tenants with the costs. When reasonable, the landlord can require the tenant to restore the interior of the unit to its previous condition before moving out.

What is a reasonable accommodation?

Landlords must make reasonable changes to their rules, policies, and practices when necessary because of a tenant's disability. For example, landlords must make exceptions to their “no pets” policies for service animals. If a tenant needs an exception to a landlord's rule because of a disability, the landlord must grant that exception unless it

would change the nature of the landlord's business or be a heavy financial or administrative burden on the landlord.

Do newly-constructed buildings need to be accessible?

In general, buildings of four or more units constructed to be occupied after March 13, 1991, need to comply with seven accessibility requirements. These apply to all ground floor units and all units in elevator buildings.

- 1) Accessible Entrance: The main entry to the building must be wheelchair accessible.
- 2) Accessible Common-Use Areas: Parking lots, lobbies, lounges, mailboxes, laundry rooms, playgrounds, and other common areas must be able to be reached by people
- 3) with disabilities.
- 4) Usable Doors: All building and unit doors must be wide enough for a wheelchair.
- 5) Accessible Route in Unit: The hallways, corners, and doors must be wide enough to allow a wheelchair to maneuver throughout the unit.
- 6) Accessible Control: Light switches, outlets, and thermostats cannot be too high or too low to reach in a wheelchair.
- 7) Reinforced Bathroom Walls: Walls must be strong enough that grab bars could be installed later safely.
- 8) Usable Kitchens and Bathrooms: There must be enough clear floor space in the kitchen and bathrooms so that a person in a wheelchair can use the facilities and appliances and maneuver in the rooms.

Do these rules apply to all housing?

Aside from the requirements for newly-constructed buildings, the fair housing laws apply to all housing UNLESS the landlord lives in the residence and rents out only one room.

Some examples of discrimination:

"Can you live independently?"

"Your wheelchair will damage the carpet and walls."

"No, you can't install grab bars in the bathroom."

"No pets allowed – not even your guide dog."

"Who will take care of you? What if there's a fire?"

"If I make an exception for you, I'd have to make one for everybody."

"You and your live-in aide don't qualify for a two-bedroom unit."

"Sorry, our new building is not handicap accessible."

What should someone do who has been discriminated against?

Call Project Sentinel at (408) 287-HOME (4663). Project Sentinel will investigate your complaint. After the investigation, the case may be referred to the lawyers at Fair Housing Law Project or Asian Law Alliance for assistance with an administrative complaint to the Department of Fair Employment and Housing, mediation, or litigation. You may also ask one of these three agencies to conciliate your complaint by reaching a settlement agreement with the housing provider.