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FAIR HOUSING AND PEOPLE WITH DISABILITIES



Accessibility

Reasonable Accommodations

Reasonable Modifications

THE VIRGINIA FAIR HOUSING LAW

The Virginia Fair Housing Law prohibits housing discrimination – in public and private housing – on the basis of race, color, religion, national origin, familial status, disability, elderliness, source of funds, sexual orientation, gender identity and military status.



DEFINITION OF DISABILITY

The legal definition of disability means a person who:

- has a **physical or mental impairment** that substantially limits one or more major life activities;
- has a record of having such an impairment; or
- is regarded as having such impairment.

EXAMPLES OF MAJOR LIFE ACTIVITIES

Walking, talking, seeing, hearing, breathing, performing manual tasks, caring for one's self, learning, and working.

THE 7 ACCESSIBILITY REQUIREMENTS

The Fair Housing Law requires the following for most multi-family housing built for first occupancy since March 13, 1991:

1. Accessible entrances on accessible routes
2. Accessible and usable public and common areas (pools, parking lots, etc.)
3. Doors wide enough for persons in wheelchairs
4. Accessible route into and through the dwelling unit
5. Accessible environmental controls (light switches, outlets, thermostats, etc.)
6. Reinforced bathroom walls (for grab bars)
7. Usable kitchens and bathrooms, so an individual in a wheelchair can maneuver about the space

Design and construction requirements apply to multi-family housing built for first occupancy on or after March 13, 1991. Covered are buildings that consist of four or more dwelling units — including apartments, condominiums, single-story townhouses, timeshares and other residential buildings.

REASONABLE ACCOMMODATIONS

WHAT IS A REASONABLE ACCOMMODATION?

A **reasonable accommodation** is a change in rules, policies, practices, or services to allow a person with a disability the equal opportunity to use and enjoy a dwelling unit or common space. Examples include service animals, parking spaces, or a transfer to a ground-floor apartment.

WHO PAYS?

Reasonable accommodations are generally paid by the housing provider.

WHAT IS CONSIDERED “REASONABLE”?

A request that does not impose an undue financial or administrative burden to the property or the community.

VERIFICATION

Verification may be necessary if the disability is not visible, or if the need for accommodation is not apparent. A medical professional, social worker or caseworker can make verification.

Although a request for reasonable accommodation may be made verbally, it is most helpful – for both the resident and the housing provider – to **put the request in writing**.

ASSISTANCE ANIMALS

Under the Fair Housing Law, a housing provider with a no-pet policy must allow a resident with disabilities to keep assistance **animal** as a reasonable accommodation. While the standard for service animals under the Americans with Disabilities Act is that the animal must be individually trained, assistance animals under FHA do not require training or certification, but must work for the benefit of the person with disabilities.



Certified service bird Sadie, an African Grey parrot [Source: New York Times, Jan. 4, 2009]

Assistance animals:

- Can be any breed, any size, any weight
- Do not need certification
- Do not need to wear a vest or any such identifying item
- Should not cost the resident any pet deposit or fees
- Must follow the rules for pets such as leash laws, vaccination and license requirements, and waste disposal

Residents must exercise control of the assistance animal, including noise control. Residents are responsible for any caused by the assistance animal.

New Information

- **Guidance Document on Assistance Animals** created to assist housing providers with responding to requests for assistance animals.
http://www.townhall.virginia.gov/L/ViewGDoc.cfm?gdi_d=6045
- **2017 Amendments to the Fair Housing Law** - § 36-96.3:1. Rights and responsibilities with respect to the use of an assistance animal in a dwelling.
<https://law.lis.virginia.gov/vacode/title36/chapter5.1/section36-96.3:1/>
- **2021 Amendment to the Virginia Fair Housing Law** - § 36-96.3:2.B. When a person receives a request for accessible parking to accommodate a disability, the person receiving the request shall treat such request as a request for reasonable accommodation as provided by this chapter.

REASONABLE MODIFICATIONS

A **reasonable modification** is a structural change made to allow a person with a disability the equal opportunity to use and enjoy their dwelling unit (even if the property meets accessibility standards). Examples include installation of ramps, grab bars, or lowered kitchen cabinets.

WHO PAYS?

Reasonable modifications are generally paid by the resident making the request. The U.S. Department of Housing and Community Development (HUD) offers loan programs to help with financing.

The housing provider may require the resident establish an escrow fund to pay to restore the unit to its original condition when the tenant moves out.

If the property receives federal funds, or if the modification is to a public or common-use area, the housing provider may be responsible for the cost.

WHAT IS CONSIDERED “REASONABLE”?

A request that does not impose an undue financial and administrative burden to the property or the community.

Although a request for reasonable modification may be made verbally, it is most helpful – for both the resident and the housing provider – to **put the request in writing**.

VERIFICATION

Verification may be necessary if the disability is not visible, or if the need for accommodation is not apparent. A medical professional, social worker or caseworker can make verification.

HIRING A CONTRACTOR

Not only can the housing provider require the modification be done in a professional manner, persons with disabilities should protect themselves and their monetary investment by hiring only **licensed** contractors. Check the contractor’s license status at www.dpor.virginia.gov or call (804) 367-8511 before choosing a contractor to make the modification.

