



## **Housing Reasonable Accommodation When Renting**

### **Scenario:**

Jane Doe lives on the third floor of a 20-unit apartment building that is a public housing authority financed by state funding but not federal funding. Jane Doe was diagnosed with multiple sclerosis. When she moved into her apartment she did not have a problem using the stairs; she now has a lot of difficulty and feels that soon she will not be able to walk up the three flights of stairs. She is worried that if she cannot access her apartment, she will be forced to move out, something she cannot afford. A friend suggests that she ask her landlord for a first-floor apartment. Jane decides to call Disability Rights Michigan to see if she should approach her landlord.

### ***What laws apply to rental housing?***

There are three federal laws which prohibit housing discrimination against people with disabilities - the Fair Housing Amendments Act (FHAA), 504 of the Rehabilitation Act of 1973, and Title II of the Americans with Disabilities Act (ADA). There is also a state statute, the Persons with Disabilities Civil Rights Act (PWDCRA), that prohibits housing discrimination. These laws provide protection from housing discrimination for housing applicants, tenants, and buyers with any kind of mental or physical disability.

### ***Is Jane covered by these laws?***

There are two questions to be answered here to determine whether Jane is covered under any of these laws. First, in order to be protected under any of these laws, Jane must be determined to be an individual with a disability. The FHAA, ADA, 504, and PWDCRA defines an individual with a disability as any person who (1) has a physical or mental impairment which substantially limits one or more of such person's major life activities, (2) has a record of such an impairment, or (3) is regarded as having such an impairment. So, for Jane to be protected under these laws she would have to show that because of her multiple sclerosis, she is substantially limited in, for example, walking, speaking, caring for herself, or performing manual tasks.

After it is determined that she is a person with a disability, it must be determined whether any of these laws apply to Jane's housing unit. In this situation, the FHAA, ADA, and PWDCRA would apply to Jane's housing unit. The ADA applies to housing programs funded by state and local governments and their agencies, including public housing authorities. The FHAA applies to most privately-owned housing and housing subsidized by federal or state funds, such as low-income public housing, assisted housing or Section 8 housing.

The PWDCRA applies to a much broader range of people. The only exceptions under PWDCRA are apartment buildings with no more than two units, when the owner or an immediate family member of the owner resides in one of the housing units or the rental of a room or rooms in a single housing dwelling by a person if the landlord or a member of the landlord's immediate family lives there.

Section 504 applies only to landlords that receive federal funds (including public housing authorities and subsidized landlords).

***What is housing discrimination?***

State and federal housing laws make it illegal to stop someone from buying, renting, or using housing because of a disability. The laws also require landlords to make reasonable accommodations to tenants with disabilities.

***Could Jane request to be moved to the first floor?***

Yes, Jane's request would be considered an accommodation which would allow her to continue enjoying her housing opportunity. Jane is entitled to make this type of request under FHAA, ADA, and PWDCRA and the landlord must grant it unless the landlord could show that allowing Jane to transfer would cause an undue financial or administrative burden. This type of request is also allowed under 504 if it applied in this situation.

A reasonable accommodation means that a landlord is required to make reasonable changes to its rules, policies, practices, and procedures, or to modify the way it provides its services, if necessary, to enable a person with a disability to have an equal opportunity to use and enjoy a dwelling or any of a development's public areas, such as a community room or laundry service. An accommodation is reasonable and therefore required unless it imposes an undue financial or administrative burden on the landlord or requires a fundamental alteration in the nature of the housing program. Modifying a rule does not mean that you can violate your lease. It means that you can have help following the lease or perhaps follow it in a different way.

***How do I make this request?***

As a tenant, you have the responsibility to request an accommodation when you need it. You should make this request in writing and keep a copy so that you can show a record of your request if necessary. Once the request is made, then the landlord must work with you to create an accommodation that is reasonable for the landlord and suits your needs.

***What if my landlord wants proof of my disability?***

If you request a reasonable accommodation, a landlord has a right to ask you to prove that you need it. The type of information you will need to provide will depend on the specifics of your situation. The information might be provided by a doctor, psychiatrist, or other medical professional. Usually it is enough for your doctor to state that you

have a disability, you need a reasonable accommodation and why the accommodation you are proposing would be helpful. It is not necessary for you to tell your landlord the specifics of your disability or give the landlord a full copy of your medical records.

***Who would have to pay for the expenses of the move?***

It depends upon the type of housing you are renting. A landlord who is subject *only* to the FHAA, would not have to pay for the expenses of a reasonable accommodation. However, if your landlord receives federal funds, then the landlord, under 504 and ADA Title II, would be required to pay for the accommodations unless he or she could show an undue financial burden.

***What if the landlord denies the request?***

You may want to contact a lawyer to help you file a discrimination complaint. Under FHAA, you file a complaint with HUD (written or by telephone) or bring a private action in either federal or state circuit court. You may file both types of complaints simultaneously. However, you cannot file a private action if the complaint with HUD is either in a litigation stage or a conciliation agreement has been reached. A complaint under the FHAA must be filed within one year after the discriminatory act has occurred. Complaints can be filed with any HUD office or the local FHEO Center.

**US DEPARTMENT OF HUD DISCRIMINATION**

HOTLINE 800.669.9777

**FHEO ENFORCEMENT CENTER**

Region V (Chicago)

800.765.9372

**Fair Housing Center of Metropolitan Detroit**

220 Bagley St # 1020

Detroit, MI 48226

313.963.1274 or 800.328.8071

**Fair Housing Center of Eastern Michigan**

Legal Services of Eastern Michigan

436 S. Saginaw #101

Flint, MI 48502-1813

810.234.2621

**Fair Housing Center of West Michigan**

20 Hall Street SE

Grand Rapids, MI 49507

616.451.2980

**Fair Housing Center of Southeast & Mid MI**

PO BOX 7825  
Ann Arbor, MI 48107  
877.979.3247

**Fair Housing Center of Southwest Michigan**

405 W Michigan Avenue  
Kalamazoo, MI 49007  
269.276.9100

Under 504 and ADA Title II a complaint may also be filed with HUD within the 180-day time frame required for FHAA complaints. Finally, under the Michigan Persons with Disabilities Civil Rights Act (PWDCRA), you may either file a complaint with the Michigan Department of Civil Rights (MDCR) **(1.800.482.3604)** or bring a civil action in State Circuit Court. A complaint must be filed within 180 days.

**This information is a service of Disability Rights Michigan (DRM). It provides general information, based on the law at the time we wrote it, and is not legal advice. You do not have an attorney-client relationship with DRM. If you need legal advice, you should contact an attorney. If you would like more information about this topic or would like to receive this information in an alternative format call DRM at 800.288.5923 or visit our website, [www.drmich.org](http://www.drmich.org).**

*Disability Rights Michigan (DRM) is mandated by federal and state law to protect the legal rights of individuals with disabilities in Michigan. DRM receives part of its funding from the Administration on Intellectual and Developmental Disabilities, the Center for Mental Health Services-Substance Abuse and Mental Health Services Administration (SAMHSA), the Rehabilitation Services Administration and the Social Security Administration.*

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